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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

[Two Sessions]

WHEN: October 17 at 9:00 am and 1:30 pm

WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street NW., Washington, DC (3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

ATLANTA, GA

WHEN: September 20 at 9:00 am

WHERE: Centers for Disease Control and Prevention
1600 Clifton Rd., NE.
Auditorium A
Atlanta, GA

RESERVATIONS: 404–639–3528 (Atlanta area)
1–800–688–9889 (Outside Atlanta area)

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Reader Aids

Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board

Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 60, No. 178
Thursday, September 14, 1995

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–03–AD; Amendment 39–9355; AD 95–18–08]

Airworthiness Directives; Airbus Model A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Model A300–600 series airplanes, that requires repetitive inspections to detect cracks in the bottom skin of the wing in the area of the cut out for the pylon rear attachment fitting, and repair, if necessary. This amendment is prompted by a report indicating that, during full-scale fatigue testing, a crack was found in the bottom skin of the wing at the cut out for the aft pylon attachment fitting due to fatigue-related stress. The actions specified by this AD are intended to prevent such fatigue-related cracking, which could result in reduced structural integrity of the wing.

DATES: Effective October 16, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 16, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2589; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Airbus Model A300–600 series airplanes was published in the **Federal Register** on May 2, 1995 (60 FR 21470). That action proposed to require repetitive detailed visual inspections to detect cracks in the bottom skin of the wing in the area of the cut out for the pylon rear attachment fitting, and repair, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

Both commenters support the proposed rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 35 airplanes of U.S. registry will be affected by this AD, that it will take approximately 6 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $12,600, or $360 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–18–08 Airbus Industrie: Amendment 39–9355. Docket 95–NM–03–AD.

Applicability: All Model A300–600 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition

addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the wing, accomplish the following:

(a) Prior to the accumulation of 24,000 total flight cycles since date of manufacture of the airplane, or within 750 flight cycles after the effective date of the AD, whichever occurs later, perform a detailed visual inspection to detect cracks in the bottom skin of the wing in the area of the cut out for the pylon rear attachment fitting, in accordance with Airbus Service Bulletin A300–57–6028, Revision 3, dated September 13, 1994. Repeat the inspection thereafter at intervals not to exceed 9,000 flight cycles. If any crack is detected, prior to further flight, repair the wing bottom skin in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The inspection shall be done in accordance with Airbus Service Bulletin A300–57–6028, Revision 3, dated September 13, 1994, which contains the specified effective pages:

Page No.	Revision level shown on page	Date shown on page
1–6	3	Sept. 13, 1994.
7–9	2	Feb. 22, 1994.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(e) This amendment becomes effective on October 16, 1995.

Issued in Renton, Washington, on August 29, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–21946 Filed 9–13–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–NM–232–AD; Amendment 39–9356; AD 95–18–09]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F28 Mark 0100 series airplanes, that requires modification of the rear spar-to-fuselage attachment. This amendment is prompted by a report indicating that, during full-scale fatigue tests on a Model F28 Mark 0100 test article, cracking was found in the coupling plate and web plate of the rear spar end fitting at the attachment to the main frame at fuselage station 17011 due to fatigue-related stress. The actions specified by this AD are intended to prevent fatigue-related cracking in the rear spar-to-fuselage attachment which, if not detected and corrected in a timely manner, could result in reduced structural integrity of the wing.

DATES: Effective October 16, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 16, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes was published in the **Federal Register** on June 9, 1995 (60 FR 30476). That action proposed to require modification of the rear spar-to-fuselage attachment.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

Both commenters support the proposed rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 21 airplanes of U.S. registry will be affected by this AD, that it will take approximately 176 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $9,000 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $410,760, or $19,560 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules

Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13—[Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–18–09 Fokker: Amendment 39–9356. Docket 94–NM–232–AD.

Applicability: Model F28 Mark 0100 series airplanes; having serial numbers 11244 through 11319 inclusive, 11321, and 11323 through 11332 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue-related cracking in the rear spar-to-fuselage attachment, which could result in reduced structural integrity of the wing, accomplish the following:

(a) Prior to the accumulation of 24,000 total flight cycles or within 6 months after the effective date of this AD, whichever occurs later, modify the rear spar-to-fuselage attachment, in accordance with Fokker Service Bulletin SBF100–53–039, dated February 10, 1993.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The modification shall be done in accordance with Fokker Service Bulletin SBF100–53–039, dated February 10, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on October 16, 1995.

Issued in Renton, Washington, on August 29, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–21954 Filed 9–13–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 91–CE–21–AD; Amendment 39–9358; AD 95–18–11]

Airworthiness Directives; de Havilland DHC–6 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 73–05–03, which currently requires repetitively inspecting the rear spar cap for cracks on certain de Havilland DHC–6 series airplanes, and replacing any cracked rear spar cap. The Federal Aviation Administration's policy on aging commuter-class aircraft is to eliminate or, in certain instances, reduce the number of certain repetitive short-interval inspections when improved parts or modifications are available. This action requires modifying the wing rear spar support (Modification No. 6/1301) as terminating action for the currently required repetitive inspections. The actions specified by this AD are intended to prevent cracking of the top flange of the wing spar attachment caps, which, if not detected and corrected, could result in loss of control of the airplane.

DATES: Effective October 26, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 26, 1995.

ADDRESSES: Service information that applies to this AD may be obtained from de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario, Canada, M3K 1Y5. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 91–CE–21–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jon Hjelm, Aerospace Engineer, FAA, New York Aircraft Certification Office, 10 Fifth Street, 3rd Floor, Valley Stream, New York 11581; telephone (516) 256–7523; facsimile (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain de Havilland DHC–6 series airplanes without Modification No. 6/1301 incorporated was published in the **Federal Register** on October 31, 1994 (59 FR 54415). The action proposed to supersede AD 73–05–03 with a new AD that would (1) initially retain the requirement of repetitively inspecting the wing rear spar cap for cracks and replacing any cracked part; and (2) eventually require installing wing rear spar attachment caps that are manufactured from a material having improved stress corrosion resistant properties (Modification 6/1301) as terminating action for the repetitive inspections. Accomplishment of the proposed actions would be in accordance with de Havilland Service Bulletin No. 6/295, Revision D, dated December 20, 1991.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review of all available information related to the subject presented above including the referenced service information, the FAA

has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

The FAA estimates that 82 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 22 workhours per airplane to accomplish the required modification, and that the average labor rate is approximately $60 an hour. Parts cost approximately $6,350 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $628,940. This figure is based upon the assumption that no affected airplane owner/operator has incorporated Modification 6/1301.

The intent of the FAA's aging commuter airplane program is to ensure safe operation of commuter-class airplanes that are in commercial service without adversely impacting private operators. Of the approximately 82 airplanes in the U.S. registry that will be affected by this AD, the FAA has determined that approximately 45 percent are operated in scheduled passenger service. A significant number of the remaining 55 percent are operated in other forms of air transportation such as air cargo and air taxi.

The following paragraphs present cost scenarios for airplanes where no cracks were found and where certain category cracks were found during the inspections, and where the remaining airplane life is 15 years with an average annual utilization rate of 1,600 hours time-in-service (TIS). A copy of the full Cost Analysis and Regulatory Flexibility Determination for the required action may be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–21–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

- No Cracks Scenario: Under the provisions of AD 73–05–03, an owner/operator of an affected de Havilland DHC–6 series airplane in scheduled service who operates an average of 1,600 hours TIS annually will inspect every 26 weeks. This amounts to a remaining airplane life (estimated 15 years) cost of $14,058; this figure is based on the assumption that no cracks are found during the inspections. This AD will incur the inspection at one 1,200-hour TIS interval and then, at 2,400 hours TIS after the effective date of the AD, the operator has to replace the top flange of the wing spar attachment caps (eliminating the need for further repetitive inspections). This results in a present value cost of $8,331, which is a present value cost savings over that required in AD 73–05–03 of $5,727 or $4,154 annualized over the 1.5 years it will take to accumulate 2,400 hours TIS. An owner of a general aviation airplane who operates 800 hours TIS annually without finding any cracks during the 1,200-hour TIS inspection will incur a present value cost savings over that required in AD 73–05–03 of $6,430. This amounts to a per year savings of $2,450 over the 1.5 years it takes to accumulate 2,400 hours TIS.
- Category I cracks found scenario: These are spanwise cracks that are inboard of the third rivet, or spanwise cracks that exceed 50 inches, or any chordwise cracks. Under the provisions of AD 73–05–03, an owner/operator who finds cracks during an inspection under this scenario has to immediately repair the cracked part and repetitively inspect every 26 weeks. This AD will require immediate replacement as terminating action for the repetitive inspections, which results in present value compliance costs of $8,355. The present value cost savings over that required in AD 73–05–03 for this scenario is $6,300 for airplanes in scheduled service and $6,295 per general aviation airplane.
- Category II cracks found scenario: These are spanwise cracks that are outboard of the 10th rivet and within the limits of paragraph (b) of the service bulletin. Under the provisions of AD 73–05–03, an owner/operator who finds cracks during an inspection under this scenario has to repetitively inspect every 13 weeks. This results in present value compliance costs of $27,625. This AD would require repetitive inspections every 600 hours TIS until replacement of the top flange of the wing rear spar attachment caps at 2,400 hours TIS after the effective date of the AD as terminating action for the repetitive inspections. This results in present value compliance costs of $9,700. Immediate replacement of the top flange is more economical than repetitively inspecting; present value costs are $8,355. The present value cost savings over that required in AD 73–05–03 for this scenario is $19,272 per airplane in scheduled service and $19,269 per general aviation airplane.
- Category III cracks found scenario: These are spanwise cracks that are outboard of the 10th rivet and within the limits of paragraph (c) of the service bulletin. Under the provisions of AD 73–05–03, an owner/operator who finds cracks during an inspection in this scenario has to repetitively inspect every 2 weeks. This results in present value compliance costs of $175,000. This AD requires repetitive inspections every 100 hours TIS until replacement of the top flange of the wing rear spar attachment caps at 2,400 hours TIS after the effective date of the AD as terminating action for the repetitive inspections. This results in present value compliance costs of $13,965. Immediate replacement of the top flange is more economical than repetitively inspecting; present value costs are $8,355. The present value cost savings over that required in AD 73–05–03 for this scenario is $166,075 per airplane in scheduled service and $166,784 per general aviation airplane.
- Category IV cracks found scenario: These are spanwise cracks that are outboard of the 10th rivet and exceed the limits of paragraph (b) or (c) of the service bulletin. Also included are cracks in the splice plates of the vertical and horizontal legs of the rear spar or elongated rivet holes. Under the provisions of AD 73–05–03, an owner/operator who finds cracks during an inspection under this scenario has to immediately repair any crack and then repetitively inspect every 26 weeks. This results in present value costs of $14,500. This AD requires immediate crack repair, then an inspection after accumulating 1,200 hours TIS, and replacement of the top flange of the wing rear spar attachment caps at 2,400 hours TIS after the effective date of the AD as terminating action for the repetitive inspections. This results in present value compliance costs of $8,929. Immediate replacement of the top flange is more economical than repetitively inspecting; present value costs are $8,355. The present value cost savings over that required in AD 73–05–03 for this scenario is $6,040 per airplane in scheduled service and $6,430 per general aviation airplane.
- Category V cracks found scenario: These are spanwise cracks that are between the third and tenth rivet. Under the provisions of AD 73–05–03, an owner/operator who finds cracks during an inspection under this scenario has to immediately repair any crack, repetitively inspect every 2 weeks, replace the top flange of the wing rear spar attachment caps, and repetitively inspect thereafter every 26 weeks. This results in present value compliance costs of about $30,000. This AD requires immediate crack repair, repetitive inspections every 50 hours TIS, and replacement of the top flange of the wing rear spar attachment caps at 2,400 hours TIS after the effective date of the AD as terminating action for the repetitive inspections. This results in present value compliance costs of

$38,988. Immediate replacement of the top flange is more economical than repetitively inspecting; present value costs are $8,355. The present value cost savings over that required in AD 73–05–03 for this scenario are $19,356 per airplane in scheduled service and $26,367 per general aviation airplane.

• Category VI cracks found scenario: These are spanwise cracks that have a total length exceeding 30 inches but not exceeding 50 inches. Under the provisions of AD 73–05–03, an owner/operator who finds cracks during an inspection under this scenario has to immediately repair any crack, replace the top flange of the wing rear spar attachment caps at 26 weeks, and repetitively inspect thereafter every 26 weeks. This results in present value compliance costs of about $21,200. This AD requires immediate crack repair, repetitive inspections every 600 hours TIS, and replacement of the top flange of the wing rear spar attachment caps at 2,400 hours TIS after the effective date of the AD as terminating action for the repetitive inspections. This results in present value compliance costs of $10,289. Immediate replacement of the top flange is more economical than repetitively inspecting; present value costs are $8,355. The present value cost savings over that required in AD 73–05–03 for this scenario is $12,707 per airplane in scheduled service and $13,028 per general aviation airplane.

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionally burdened by government regulations. The RFA requires government agencies to determine whether rules could have a ''significant economic impact on a substantial number of small entities,'' and, in cases where they could, conduct a Regulatory Flexibility Analysis in which alternatives to the rule are considered. FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, outlines FAA procedures and criteria for complying with the RFA. Small entities are defined as small businesses and small not-for-profit organizations that are independently owned and operated or airports operated by small governmental jurisdictions. A ''substantial number'' is defined as a number that is not less than 11 and that is more than one-third of the small entities subject to a rule, or any number of small entities judged to be substantial by the rulemaking official. A ''significant economic impact'' is defined by an annualized net compliance cost, adjusted for inflation, which is greater than a threshold cost level for defined entity types. FAA Order 2100.14A sets the size threshold for small entities operating aircraft for hire at 9 aircraft owned and the annualized cost thresholds, adjusted to 1994 dollars, at $69,000 for scheduled operators and $5,000 for unscheduled operators.

Of the 82 U.S.-registered airplanes affected by this AD, three airplanes are owned by the federal government. Of the other 79, one business owns 24 airplanes, one business owns 7 airplanes, one business owns 6 airplanes, one business owns 3 airplanes, 6 businesses own 2 airplanes each, and twenty-seven businesses own 1 airplane each.

As presented in the crack scenario discussion, replacing the top flange of the wing rear spar attachment caps immediately or within 2,400 hours TIS after the effective date of this AD is more economical in all scenarios than continuing to repetitively inspect the part for the life of the airplane. Therefore, this AD will not have a ''significant economic impact on a substantial number of small entities.''

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 73–05–03, Amendment 39–1658, and adding a new AD to read as follows:

95–18–11 De Havillland: Amendment 39–9358; Docket No. 91–CE–21–AD.

Supersedes AD 73–05–03, Amendment 39–1658.

Applicability: Models DHC–6–1, DHC–6–100, DHC–6–200, and DHC–6–300 airplanes (serial numbers 1 to 330), certificated in any category, that have not incorporated Modification 6/1301 in accordance with the instructions in Part C of de Havilland Service Bulletin (SB) 6/295, Revision D, dated December 20, 1991.

Note 1: This AD applies to each airplane identified in the preceding applicability revision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent cracking of the top flange of the wing rear spar attachment caps, which, if not detected and corrected, could result in loss of control of the airplane, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, inspect both wing rear spar attachment caps, part number (P/N) C6WM1032, for cracks in accordance with paragraph A of the Accomplishment Instructions section of de Havilland SB No. 6/295, Revision D, dated December 20, 1991. The exposure time of Inspection Method A.1 (Radiographic) in this service bulletin shall be 120 seconds instead of 60 seconds for the inboard X-ray tube location, and the X-ray beam angle shall be decreased from 10 degrees to 5 degrees for all X-ray tube locations.

(1) If cracking is not detected, reinspect each cap every 1,200 hours TIS until a Modification 6/1301 spar cap is installed as required by paragraph (c) of this AD.

(2) If spanwise cracking is detected outboard of the 10th rivet, accomplish the following:

(i) For cracks that have the following (the criteria of paragraph (c) in the Compliance section of de Havilland SB No. 6/295, Revision D, dated December 20, 1991):

First to tenth rivet.	No cracks.
11th to 29th rivet.	One cracked pitch (the distance between adjacent rivet holes) in ten pitches with four uncracked pitches minimum between cracks.
30th to 69th rivet.	Two cracked pitches in ten pitches with four uncracked pitches minimum between cracks.
70th to 74th (end).	One cracked pitch.

Repeat the inspection specified in paragraph (a) of this AD at intervals not to exceed 100 hours TIS until a Modification 6/1301 spar cap is installed as required by paragraph (c) of this AD.

(ii) For cracks found outboard of the 10th rivet that run only between two adjacent rivets provided not more than four such cracks exist in an attachment cap and a minimum of two rivet pitch lengths of uncracked material separate cracks (the criteria of paragraph (b) in the Compliance section of de Havilland SB No. 6/295), repeat the inspection specified in paragraph (a) of this AD at intervals not to exceed 600 hours TIS until a Modification 6/1301 spar cap is installed as required by paragraph (c) of this AD.

(iii) For cracks that meet or exceed the criteria of paragraphs (b) or (c) in the Compliance section of de Havilland SB No. 6/295, prior to further flight, reinforce the spar cap in accordance with paragraph B of the Accomplishment Instructions section of de Havilland SB No. 6/295, Revision D, dated December 20, 1991, and repeat the inspection specified in paragraph (a) of this AD at intervals not to exceed 1,200 hours TIS until a Modification 6/1301 spar cap is installed as required by paragraph (c) of this AD.

(3) If spanwise cracking is detected inboard of the third rivet, or if a chordwise crack is detected, or if the total length of cracks on a cap exceeds 50 inches, prior to further flight, replace the spar cap with a Modification 6/1301 cap in accordance with paragraph C of the Accomplishment Instructions section of de Havilland SB No. 6/295, Revision D, dated December 20, 1991.

(4) If spanwise cracking is detected between the third and tenth rivet, prior to further flight, reinforce the spar cap in accordance with paragraph B of the Accomplishment Instructions section of de Havilland SB No. 6/295, Revision D, dated December 20, 1991, and repeat the inspection specified in paragraph (a) of this AD inboard of the reinforced attachment caps at intervals not to exceed 50 hours TIS until a Modification 6/1301 spar cap is installed as required by paragraph (c) of this AD.

(5) If cracking exceeds a total length of 30 inches but does not exceed 50 inches, prior to further flight, reinforce the spar cap in accordance with paragraph B of the Accomplishment Instructions section of de Havilland SB No. 6/295, Revision D, dated December 20, 1991, and repeat the inspection specified in paragraph (a) of this AD at intervals not to exceed 600 hours TIS until a Modification 6/1301 spar cap is installed as required by paragraph (c) of this AD.

(b) Within 100 hours after the effective date of this AD and thereafter at intervals not to exceed 1,200 hours TIS until a Modification 6/1301 spar cap is installed as required by paragraph (c) of this AD, inspect the splice plates of the vertical and horizontal legs of the rear spar fitting at Wing Stations 87 to 91 for cracks or elongated rivet holes. Prior to further flight, replace any part that is cracked or has elongated rivet holes with a serviceable part.

(c) Within 2,400 hours TIS after the effective date of this AD, replace both wing rear spar caps with a Modification 6/1301 spar cap in accordance with paragraph C of the Accomplishment Instructions in de Havilland SB No. 6/295, Revision D, dated December 20, 1991, unless already accomplished.

(d) Incorporating Modification 6/1301 on both wing rear spar caps in accordance with paragraph C of the Accomplishment Instructions in de Havilland SB No. 6/295, Revision D, dated December 20, 1991, is considered terminating action for the inspection requirements of this AD.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, New York Aircraft Certification Office (ACO), FAA, 10 Fifth Street, 3rd Floor, Valley Stream, New York 11581. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(g) The inspections and modification required by this AD shall be done in accordance with de Havilland Service Bulletin No. 6/295, Revision D, dated December 20, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5 Canada. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(h) This amendment (39–9358) supersedes AD 73–05–03, Amendment 39–1658.

(i) This amendment (39–9358) becomes effective on October 26, 1995.

Issued in Kansas City, Missouri, on August 28, 1995.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–21957 Filed 9–13–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–CE–36–AD; Amendment 39–9360; AD 95–18–13]

Airworthiness Directives; HOAC AUSTRIA GmbH HK 36R ''Super Dimona'' Gliders

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain HOAC AUSTRIA GmbH (HOAC) HK 36R ''Super Dimona'' gliders. This action requires inspecting the exhaust system for corrosion, replacing the exhaust system if corrosion is found, and installing a carbon monoxide detector. Reports received by the Federal Aviation Administration (FAA) of severe exhaust system corrosion on the affected gliders, including one of excessive corrosion (rusting through), prompted this action. The actions specified by this AD are intended to prevent carbon monoxide leakage caused by a corroded exhaust system, which, if not detected and corrected, could lead to passenger injuries.

DATES: Effective October 26, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 26, 1995.

ADDRESSES: Service information that applies to this AD may be obtained from HOAC AUSTRIA GmbH, N.A. Otto Strasse 5, A–2700 Wiener Neustadt, Austria. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 94–CE–36–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Herman C. Belderok, Project Officer, Gliders, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal

Aviation Regulations (14 CFR part 39) to include an AD that would apply to HOAC HK 36R ''Super Dimona'' gliders was published in the **Federal Register** on March 30, 1995 (60 FR 16396). The action proposed to require inspecting the exhaust system for corrosion, replacing the exhaust system if corrosion is found, and installing a carbon monoxide detector. Accomplishment of the proposed action would be in accordance with the Measures section of HOAC Service Bulletin No. 33, dated July 15, 1993.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review of all available information related to the subject presented above including the referenced service information, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

The FAA estimates that 4 gliders in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per glider to accomplish the required inspection and install a carbon monoxide detector, and that the average labor rate is approximately $60 an hour. Parts (a carbon monoxide detector) will be provided by the manufacturer at no cost to the owner/operator. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $240 ($60 per glider). This figure is based on the assumption that no affected owner/operator of the affected gliders has incorporated the required installation or accomplished the required inspection.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

95–18–13 HOAC AUSTRIA GmbH: Amendment 39–9360; Docket No. 94–CE–36–AD.

Applicability: HK 36R ''Super Dimona'' gliders (serial numbers 36.302 through 36.323), certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability revision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 10 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent carbon monoxide leakage caused by a corroded exhaust system, which, if not detected and corrected, could lead to passenger injuries, accomplish the following:

(a) Inspect the exhaust system for corrosion in accordance with the Measures section of HOAC Service Bulletin (SB) No. 33, dated July 15, 1993. If corrosion is found, prior to further flight, replace the exhaust system in accordance with the Measures section of HOAC SB No. 33, dated July 15, 1993.

(b) Install a carbon monoxide detector in accordance with the Measures section of HOAC SB No. 33, dated July 15, 1993.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the glider to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) The inspection, replacement, and installation required by this AD shall be done in accordance with HOAC Service Bulletin No. 33, dated July 15, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from HOAC AUSTRIA GmbH, N.A. Otto Strasse 5, A–2700 Wiener Neustadt, Austria. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(f) This amendment (39–9360) becomes effective on October 26, 1995. Issued in Kansas City, Missouri, on August 28, 1995.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–21958 Filed 9–13–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–CE–11–AD; Amendment 39–9359; AD 95–18–12]

Airworthiness Directives; Mooney Aircraft Corporation Model M20K Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Mooney Aircraft Corporation (Mooney) Model M20K airplanes. This action requires inspecting to see if the airplane is equipped with a Gerdes fuel selector valve, part number (P/N) A–2580, and replacing any Gerdes fuel selector valve with an Airight fuel

selector valve. Malfunction of a Gerdes fuel selector valve on an affected airplane, where the valve did not allow the operator to select the appropriate fuel tank, prompted this action. The actions specified by this AD are intended to prevent fuel selector valve malfunction, which, if not detected and corrected, will prevent the airplane operator from selecting the appropriate fuel tank, resulting in an unscheduled landing.

DATES: Effective October 20, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 20, 1995.

ADDRESSES: Service information that applies to this AD may be obtained from the Mooney Aircraft Corporation, Louis Schreiner Field, Kerrville, Texas 78028; telephone (210) 896–6000. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 95–CE–11–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Sills, Mechanical Systems Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone (817) 222–5154; facsimile (817) 222–5959.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Mooney Model M20K airplanes was published in the **Federal Register** on April 11, 1995 (60 FR 18374). The action proposed to require inspecting to see if the airplane is equipped with a Gerdes fuel selector valve, (P/N) A–2580, and replacing any Gerdes fuel selector valve with an Airight fuel selector valve. Accomplishment of the proposed replacement would be in accordance with Mooney Service Bulletin M20–256, dated January 24, 1995.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

The FAA estimates that 78 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 3 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $535 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $55,770. This figure is based on the assumption that no airplane owner/operator has accomplished the required modification. Mooney has informed the FAA that parts have not been distributed to any owner/operator of the affected airplanes.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

95–18–12 Mooney Aircraft Corporation: Amendment 39–9359; Docket No. 95–CE–11–AD.

Applicability: Model M20K airplanes (all serial numbers), certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability revision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it. Compliance: Required within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent fuel selector valve malfunction, which, if not detected and corrected, will prevent the airplane operator from selecting the appropriate fuel tank, resulting in an unscheduled landing, accomplish the following:

(a) Inspect to see if the airplane is equipped with a Gerdes fuel selector valve, part number (P/N) A–2580. This inspection may be accomplished by examining the cross-sectional shape of the selector valve. The Gerdes selector valve has a rectangular cross section with square corners.

Note 2: The following airplane serial numbers (S/N) had a Gerdes fuel selector valve, part number (P/N) A–2580, installed at manufacture:

S/N 25–0001 through 25–0091, except for the following:

S/N's 25–0017, 25–0027, 25–0052, 250063, 25–0067, 25–0068, 25–0078, 25–0081, 25–0082, 25–0083, 25–0084, 25–0085, 25–0086, and 25–0089.

The excluded S/N 25–0001 through 25–0091 Model M20K airplanes and any S/N Model M20K airplanes outside that range may have had a Gerdes fuel selector valve, part number (P/N) A–2580, installed by field modification.

(b) Replace any Gerdes fuel selector valve, P/N A–2580, with an Airight fuel selector valve in accordance with the INSTRUCTIONS section in Mooney Service Bulletin M20–256, dated January 24, 1995.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199

of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished provided that the fuel selector valve is functioning properly.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Airplane Certification Office (ACO), FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth ACO.

(e) The replacement required by this AD shall be done in accordance with Mooney Service Bulletin M20–256, dated January 24, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Mooney Aircraft Corporation, Louis Schreiner Field, Kerrville, Texas 78028. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(f) This amendment (39–9359) becomes effective on October 20, 1995.

Issued in Kansas City, Missouri, on August 28, 1995.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–21959 Filed 9–13–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 91–CE–22–AD; Amendment 39–9357; AD 95–18–10]

Airworthiness Directives; de Havilland DHC–6 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 81–10–11, which currently requires repetitively inspecting the elevator root ribs for cracks on de Havilland DHC–6 series airplanes, and replacing any cracked part. The Federal Aviation Administration's policy on aging commuter-class aircraft is to eliminate, or, in certain instances, reduce the number of certain repetitive short-interval inspections when improved parts or modifications are available. This action requires modifying the elevator root rib as terminating action for the repetitive inspections currently required by AD 81–10–11. The actions specified by this AD are intended to prevent failure of the elevator root rib, which could result in loss of control of the airplane.

DATES: Effective October 26, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 26, 1995.

ADDRESSES: Service information that applies to this AD may be obtained from de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario, Canada, M3K1Y5. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 91–CE–22–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jon Hjelm, Aerospace Engineer, FAA, New York Aircraft Certification Office, 10 Fifth Street, 3rd Floor, Valley Stream, New York 11581; telephone (516) 256–7523; facsimile (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to de Havilland DHC–6 series airplanes that do not have Modification No. 6/1769 incorporated was published in the **Federal Register** on October 3, 1994 (59 FR 54412). The action proposed to supersede AD 81–10–11 with a new AD that would (1) retain the current requirement of inspecting the elevator root rib for cracks, and replacing any cracked part; and (2) require modifying the elevator root rib (Modification 6/1769) as terminating action for the repetitive inspections. Accomplishment of the proposed actions would be in accordance with de Havilland Service Bulletin No. 6/399, Revision E, dated May 25, 1984.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review of all available information related to the subject presented above including the referenced service information, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

The FAA estimates that 169 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 54 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $4,200 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $1,257,360. This figure is based on the assumption that none of the affected airplane owners/operators have incorporated Modification 6/1769.

The intent of the FAA's aging commuter airplane program is to ensure safe operation of commuter-class airplanes that are in commercial service without adversely impacting private operators. Of the approximately 169 airplanes in the U.S. registry that will be affected by this AD, the FAA has determined that approximately 50 percent are operated in scheduled passenger service. A significant number of the remaining 50 percent are operated in other forms of air transportation such as air cargo and air taxi.

The following paragraphs present cost scenarios for airplanes where no cracks were found and where cracks were found, utilizing an average remaining airplane life of 15 years and an average annual utilization rate of 1,600 hours time-in-service (TIS). De Havilland Models DHC–6–100 and DHC–6–200 airplanes have probably already accumulated 15,000 hours TIS; therefore, those airplanes would have 100 hours TIS after the effective date of the AD to incorporate Modification 6/1769. Some Model DHC–6–300 airplanes have not yet accumulated 15,000 hours TIS. This analysis is based upon the assumption that those airplanes yet to accumulate 15,000 hours TIS have 10,000 hours TIS if operated in scheduled service and 5,000 hours TIS if operated in general aviation. A copy of the full Cost Analysis and Regulatory Flexibility Determination for this action may be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–22–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

- No Cracks Scenario for Models DHC–6–100 and DHC–6–200: These airplanes will be inspected at 50 hours TIS after the effective date and modified within 100 hours TIS after the effective date. The incremental present value cost of this AD over that required by AD 81–10–11 is $5,919 for an airplane utilized

in scheduled service, and $6,642 for an airplane utilized in general aviation.

• No Cracks Scenario for Model DHC–6–300 Airplanes: These airplanes will be inspected at 50 hours TIS after the effective date and thereafter at 600-hour TIS intervals until the elevator root rib is replaced upon the accumulation of 15,000 hours TIS. The incremental present value cost of this AD over that required by AD 81–10–11 is $4,962 for an airplane utilized in scheduled service, and $3,099 for an airplane utilized in general aviation.

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionally burdened by government regulations. The RFA requires government agencies to determine whether rules will have a ''significant economic impact on a substantial number of small entities,'' and, in cases where they could, conduct a Regulatory Flexibility Analysis in which alternatives to the rule are considered. FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, outlines FAA procedures and criteria for complying with the RFA. Small entities are defined as small businesses and small not-for-profit organizations that are independently owned and operated or airports operated by small governmental jurisdictions. A ''substantial number'' is defined as a number that is not less than 11 and that is more than one-third of the small entities subject to a rule, or any number of small entities judged to be substantial by the rulemaking official. A ''significant economic impact'' is defined by an annualized net compliance cost, adjusted for inflation, which is greater than a threshold cost level for defined entity types. FAA Order 2100.14A sets the size threshold for small entities operating aircraft for hire at 9 aircraft owned and the annualized cost thresholds, adjusted to 1994 dollars, at $69,000 for scheduled operators and $5,000 for unscheduled operators.

Of the 169 U.S.-registered airplanes affected by this AD, six airplanes are owned by the federal government. Of the other 163 airplanes, one business owns 26 airplanes, two businesses own 9 airplanes each, one business owns 8 airplanes, one business owns 7 airplanes, one business owns 5 airplanes, four businesses own 3 airplanes each, sixteen businesses own 2 airplanes each, and fifty-five businesses own 1 airplane each.

Because the FAA has no readily available means of obtaining data on the sizes of these entities, the economic analysis for this AD utilizes the worst case scenario using the lower annualized cost threshold of $5,000 for operators in unscheduled service instead of $69,000 for operators in scheduled service. With this in mind and based on the above ownership distribution, this AD could have a significant impact on a substantial number of small entities. Because of this, the FAA conducted a regulatory flexibility analysis. A copy of this analysis may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, may have a significant economic impact on a substantial number of small entities. The FAA has conducted an Initial Regulatory Flexibility Determination and Analysis and has considered alternatives to this action that could minimize the impact on small entities. A copy of this analysis may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.** After careful consideration, the FAA has determined that the required action is the best course to achieve the safety objective of returning the airplane to its original certification level of safety.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 81–10–11, Amendment 39–4112, and adding a new AD to read as follows:

95–18–10 De Havilland: Amendment 39–9357; Docket No. 91–CE–22–AD. Supersedes AD 81–10–11, Amendment 39–4112.

Applicability: Models DHC–6–1, DHC–6–100, DHC–6–200, and DHC–6–300 airplanes (all serial numbers), certificated in any category, that do not have Modification No. 6/1769 incorporated.

Note 1: This AD applies to each airplane identified in the preceding applicability revision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of the AD, unless already accomplished.

To prevent failure of the elevator root rib, which could result in loss of control of the airplane, accomplish the following:

(a) Within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished (compliance with AD 81–10–11), inspect the elevator root rib, part number (P/N) C6TE1022, for cracks in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of de Havilland Service Bulletin (SB) No. 6/399, Revision E, dated May 25, 1984.

(1) If any crack is found, prior to further flight, accomplish one of the following:

(i) Replace the cracked part with an airworthy part and reinspect thereafter at intervals not to exceed 600 hours TIS until the modification required in paragraph (b) of this AD is incorporated; or

(ii) Incorporate Modification 6/1769 in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of de Havilland SB No. 6/399, Revision E, dated May 25, 1984.

Note 2: Modification 6/1769 consists of pulling back the elevator skins, removing the torque tube assembly, replacing the root rib assembly and doubler, replacing the second outboard nose rib, installing a new intercostal, and reinstalling the torque tube assembly and new skin.

(2) If no cracks are found, reinspect thereafter at intervals not to exceed 600 hours TIS until the modification required in paragraph (b) of this AD is incorporated.

(b) Upon the accumulation of 15,000 hours TIS or within the next 100 hours TIS after the effective date of this AD, whichever occurs

later, unless already accomplished, incorporate Modification 6/1769 in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of de Havilland SB No. 6/399, Revision E, dated May 25, 1984.

(c) Incorporating Modification 6/1769 as specified in paragraphs (a)(1)(ii) and (b) of this AD is considered terminating action for the inspection requirements of this AD.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, New York Aircraft Certification Office (ACO), FAA, 10 Fifth Street, 3rd Floor, Valley Stream, New York 11581. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(f) The inspections and modification required by this AD shall be done in accordance with de Havilland Service Bulletin No. 6/399, Revision E, dated May 25, 1984. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5 Canada. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street NW., 7th Floor, suite 700, Washington, DC.

(g) This amendment (39–9357) supersedes AD 81–10–11, Amendment 39–4112.

(h) This amendment (39–9357) becomes effective on October 26, 1995.

Issued in Kansas City, Missouri, on August 28, 1995.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–21960 Filed 9–13–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–CE–58–AD; Amendment 39–9369; AD 95–19–07]

Airworthiness Directives; Fairchild Aircraft SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Fairchild Aircraft SA226 and SA227 series airplanes equipped with certain main landing gear (MLG) and nose landing gear (NLG). This action requires repetitively inspecting, using ultrasonic methods, the left-hand and right-hand MLG yokes and the NLG yokes for stress corrosion cracking, and, if any cracked yokes are found that exceed certain limits, either replacing the cracked yoke, the yoke/cylinder combination, or the affected MLG or NLG assembly. Several reports of landing gear failures on the affected airplanes that have the affected MLG or NLG yokes installed prompted this action. The actions specified by this AD are intended to prevent MLG or NLG failure caused by stress corrosion cracks in the yokes, which, if not detected and corrected, could result in loss of control of the airplane during landing operations.

DATES: Effective September 28, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 28, 1995.

Comments for inclusion in the Rules Docket must be received on or before November 4, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–58–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490; telephone (210) 824–9421. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 95–CE–58–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Werner Koch, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone (817) 222–5133; facsimile (817) 222–5960.

SUPPLEMENTARY INFORMATION: The FAA has received several reports of main landing gear (MLG) and nose landing gear (NLG) failure on Fairchild Aircraft SA226 and SA227 series airplanes. The airplanes in these incidents are equipped with part number (P/N) OAS5453 MLG and P/N OAS5451 NLG.

Metallurgical analysis of the yokes of the right-hand and left-hand MLG and NLG gear on several of these airplanes revealed that the failure was initiated by stress corrosion cracking of the yokes, which started as corrosion fatigue. This condition, if not detected and corrected, could result in loss of control of the airplane during landing operations.

Fairchild Aircraft has issued Service Bulletin (SB) 226–32–065, SB 227–32–039, and SB CC7–32–007, all Issued: August 16, 1995, which specify procedures for ultrasonically inspecting the left-hand and right-hand MLG yoke, P/N 5453005–1, 5453005–3, or 5453005–5, and the NLG yoke, P/N 5451005–1, on Fairchild Aircraft SA226 and SA227 series airplanes.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent MLG or NLG failure caused by stress corrosion cracks of the yokes, which, if not detected and corrected, could result in loss of control of the airplane during landing operations.

Since an unsafe condition has been identified that is likely to exist or develop in other Fairchild Aircraft SA226 and SA227 series airplanes of the same type design, this AD requires repetitively inspecting, using ultrasonic methods, the left-hand and right-hand MLG yokes and the NLG yokes for stress corrosion cracking, and, if any cracked yokes are found that exceed certain limits, either replacing the cracked yoke, the yoke/cylinder combination, or the affected MLG or NLG assembly. Accomplishment of the ultrasonic inspections shall be in accordance with either Fairchild Aircraft SB 226–32–065, SB 227–32–039, and SB CC7–32–007, all Issued: August 16, 1995, as applicable. The replacement, if necessary, shall be accomplished in accordance with the applicable maintenance manual.

Since a situation exists (possible loss of control of the airplane during landing operations) that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the

Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 95–CE–58–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

95–19–07 Fairchild Aircraft: Amendment 39–9369; Docket No. 95–CE–58–AD.

Applicability: Models SA226–T, SA226–AT, SA226–TC, SA226–T(B), SA227–AC, SA227–AT, SA227–BC, SA227–TT, SA227–CC, and SA227–DC airplanes (all serial numbers), certificated in any category, that are equipped with one or more of the following:

1. Main landing gear part number (P/N) OAS5453–*(dash numbers 1 through 19) with either a P/N 5453005–1, 5453005–3, or 5453005–5 yoke installed; or

2. Nose landing gear P/N OAS5451–*(dash numbers 1 through 17) with a P/N 5451005–1 yoke installed.

Note 1: This AD applies to each airplane identified in the preceding applicability revision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required initially as follows and thereafter as indicated in the body of this AD:

1. Within the next 75 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished; and

2. Upon the installation of one of the affected main landing gear or nose landing gear assemblies or yokes.

To prevent main landing gear or nose landing gear failure caused by stress corrosion cracks of the yoke, which, if not detected and corrected, could result in loss of control of the airplane during landing operations, accomplish the following:

Note 2: The paragraph structure of this AD is as follows:

Level 1: (a), (b), (c), etc.
Level 2: (1), (2), (3), etc.
Level 3: (i), (ii), (iii), etc.

Level 2 and Level 3 structures are designations of the Level 1 paragraph they immediately follow.

(a) Inspect, using ultrasonic methods, the left-hand and right-hand main landing gear and the nose landing gear yoke for stress corrosion cracking in accordance with one of the following, as applicable:

(1) The ACCOMPLISHMENT INSTRUCTIONS section of Fairchild Service Bulletin (SB) 226–32–065, Issued: August 16, 1995.

(2) The ACCOMPLISHMENT INSTRUCTIONS section of Fairchild SB 227–32–039, Issued: August 16, 1995.

(3) The ACCOMPLISHMENT INSTRUCTIONS section of Fairchild SB CC7–32–007, Issued: August 16, 1995.

(b) Reinspect or replace the right-hand or left-hand main landing gear or nose landing gear yoke as follows based on the results of any required inspection:

(1) If no cracks are found or a crack is found that is less than .25 inch, accomplish the following:

(i) Prior to further flight after the inspection required by paragraph (a) of this AD, clean the main landing gears and nose landing gear yoke and piston in accordance with Figure 2 of the service bulletins referenced in paragraphs (a)(1), (a)(2), and (a)(3) of this AD;

(ii) Prior to further flight after the inspection required by paragraph (a) of this AD, apply a small bead of Products Research and Chemical Corporation PR–1422 or PR–1435 sealant to the main landing gears and nose landing gear yoke as shown in Figure 2 of the service bulletins referenced in paragraphs (a)(1), (a)(2), and (a)(3) of this AD, and as described in the SA226/227 Series Service Repair Manual, Chapter 51–30–03, Standard Practices—Sealing; and

(iii) Reinspect at intervals not to exceed 2,000 hours TIS provided no cracks are found that are .25 inch or more in length.

(2) If a crack is found with a length of .25 inch or more but not more than .50 inch, reinspect at intervals not to exceed 1,000 hours TIS provided the crack is no longer than .50 inch.

(3) If a crack is found with a length more than .50 inch but not more than .75 inch, reinspect at intervals not to exceed 500 hours TIS provided the crack is no longer than .75 inch.

(4) If a crack is found with a length more than .75 inch but not more than 1 inch, reinspect at intervals not to exceed 200 hours TIS provided the crack is no longer than 1 inch.

(5) If a crack is found with a length more than 1 inch but not more than 1.5 inches, accomplish the following:

(i) Within 100 hours TIS after the inspection required by paragraph (a) of this AD, replace the cracked part with a new part in accordance with the applicable maintenance manual. This may be accomplished by replacing the cracked yoke, the total gear assembly, or the yoke/cylinder combination;

(ii) Prior to further flight after replacing the cracked part, clean the main landing gears and nose landing gear yoke and piston in accordance with figure 2 of the service bulletins referenced in paragraphs (a)(1), (a)(2), and (a)(3) of this AD;

(iii) Prior to further flight after replacing the cracked part, apply a small bead of Products Research and Chemical Corporation PR–1422 or PR–1435 sealant to the main landing gears and nose landing gear yoke as shown in Figure 2 of the service bulletins referenced in paragraphs (a)(1), (a)(2), and (a)(3) of this AD, and as described in the SA226/227 Series Service Repair Manual, Chapter 51–30–03, Standard Practices—Sealing; and

(iv) Repeat the inspections specified in paragraphs (a) and (b) of this AD and replace the part as required.

(6) If a crack is found with a length more than 1.5 inches, accomplish the following:

(i) Prior to further flight after the inspection required by paragraph (a) of this AD, replace the cracked part with a new part in accordance with the applicable maintenance manual. This may be accomplished by replacing the cracked yoke, the total gear assembly, or the yoke/cylinder combination;

(ii) Prior to further flight after replacing the cracked part, clean the main landing gears and nose landing gear yoke and piston in accordance with figure 2 of the service bulletins referenced in paragraphs (a)(1), (a)(2), and (a)(3) of this AD;

(iii) Prior to further flight after replacing the cracked part, apply a small bead of Products Research and Chemical Corporation PR–1422 or PR–1435 sealant to the main landing gears and nose landing gear yoke as shown in Figure 2 of the service bulletins referenced in paragraphs (a)(1), (a)(2), and (a)(3) of this AD, and as described in the SA226/227 Series Service Repair Manual, Chapter 51–30–03, Standard Practices—Sealing; and

(iv) Repeat the inspections specified in paragraphs (a) and (b) of this AD and replace the part as required.

(7) If multiple cracks are found, add the total length of the cracks and use the criteria presented in paragraphs (b)(1) through (b)(6) of this AD, including all subparagraph designations, to establish repetitive inspection intervals or replacement times.

(c) The MLG and NLG yokes affected by this AD are manufactured by Ozone Industries, Inc. Replacing these yokes with approved parts manufactured by Fairchild Aircraft eliminates the repetitive inspection requirements of this AD.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Airplane Certification Office (ACO), FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth ACO.

(f) The inspections required by this AD shall be done in accordance with Fairchild Aircraft Service Bulletin 226–32–065, Issued: August 16, 1995, Fairchild Aircraft Service Bulletin 227–32–039, Issued: August 16, 1995, or Fairchild Aircraft Service Bulletin CC7–32–007, Issued: August 16, 1995, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street NW., 7th Floor, suite 700, Washington, DC.

(g) This amendment (39–9369) becomes effective on September 28, 1995.

Issued in Kansas City, Missouri, on September 6, 1995.

Gerald W. Pierce,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–22646 Filed 9–13–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–149–AD; Amendment 39–9372; AD 95–19–10]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Boeing Model 767 series airplanes. This action requires operators to perform visual inspections of the outer cylinder aft trunnion on the main landing gear to determine if the fillet seal is cracked or missing. This action also requires operators to inspect for evidence of corrosion in this location. Finally, this action prescribes the procedures that operators must follow if corrosion is found. This amendment is prompted by several reports of fractures of the outer cylinder aft trunnion due to stress corrosion cracking. The actions specified in this AD are intended to ensure that corrosion is not present in this location, thereby preventing future failures due to stress corrosion cracking.

DATES: Effective September 29, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 29, 1995.

Comments for inclusion in the Rules Docket must be received on or before November 13, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–149–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James G. Rehrl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2783; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received reports of fractures of the outer cylinder of the aft trunnion of the main landing gear (MLG) on three Boeing Model 767 series airplanes. One of the three airplanes was six years old and had accumulated 28,887 total flight hours; another was six years old and had accumulated 25,841 total flight hours; and the third was eight years old and had accumulated 27,177 total flight hours. All of these airplanes were equipped with the original MLG, none of which had been overhauled at the time of the failure. Investigation revealed that in each case, moisture had entered the area between the outer cylinder of the MLG and a mating bushing. The effects of such moisture subsequently caused stress corrosion cracking. This condition, if not detected and corrected in a timely manner, could cause more fractures of the outer cylinder of the aft trunnion, which could result in the loss of the MLG.

The FAA has reviewed and approved Boeing Service Letter 767–SL–32–067, dated August 4, 1995, which describes the following procedures:

1. Performing repetitive visual inspections to determine if the fillet seal of the outer cylinder aft trunnion is cracked or missing;

2. Removing the fillet seal, solvent-cleaning the adjacent area, applying corrosion inhibiting compound (CIC),

and visually inspecting to detect corrosion, if any fillet seal is found cracked or missing; and

3. Re-applying CIC and greasing, if no corrosion is detected, or repairing the aft trunnion, if any corrosion is detected. Accomplishment of this repair eliminates the need for the repetitive inspections.

Since an unsafe condition has been identified that is likely to exist or develop on other Boeing Model 767 series airplanes of the same type design, this AD is being issued to prevent stress corrosion cracking, which could result in fractures of the outer cylinder aft trunnion and the subsequent loss of the MLG. This AD requires visual inspections to determine if the fillet seal of the outer cylinder aft trunnion is cracked or missing, and the correction of any discrepancy or follow-on actions, if necessary. Repairing the aft trunnion constitutes terminating action for the repetitive inspection requirements. The actions are required to be accomplished in accordance with the service letter described previously.

Operators should note that this AD requires repetitive application of CIC and grease every 500 flight hours, rather than at the 2A check interval (1,000 flight hours), as recommended in the service letter. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the susceptibility of the subject area to a high velocity of water spray (such as, landing on wet runways, high pressure washing, etc.), which could lead to the accumulation of water and subsequent stress corrosion cracking of the outer cylinder of the aft trunnion.

The FAA considers this AD to be interim action. The manufacturer has advised that it is developing a modification that will prevent future occurrences of this unsafe condition. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this rule to clarify this long-standing requirement.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–149–AD.'' The postcard will be date-stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–19–10 Boeing: Amendment 39–9372. Docket 95–NM–149–AD.

Applicability: All Model 767 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition

addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent stress corrosion cracking, which could result in fractures of the outer cylinder aft trunnion and the subsequent loss of the main landing gear (MLG), accomplish the following:

(a) Within 5–½ years since the last overhaul of the MLG or since the date of manufacture of the MLG (for MLG's that have not been overhauled), or within 60 days after the effective date of this AD, whichever occurs later: Perform a visual inspection to determine if the fillet seal of the outer cylinder aft trunnion is cracked or missing, in accordance with Boeing Service Letter 767–SL–32–067, dated August 4, 1995. For the purposes of this AD, fillet seals are not considered to be ''cracked'' if cracks are found in the fillet seal paint only (where the fillet seal itself is not cracked).

(b) If no cracked fillet seal is found during the inspection required by paragraph (a) of this AD, repeat the inspection thereafter at intervals not to exceed 18 months.

(c) If any fillet seal is found to be cracked or missing during the inspection required by paragraph (a) of this AD, prior to further flight, remove the fillet seal (if present), clean the adjacent area with a solvent, apply corrosion inhibiting compound (CIC), and perform a visual inspection to detect corrosion, in accordance with Boeing Service Letter 767–SL–32–067, dated August 4, 1995.

(1) If no corrosion is detected, prior to the accumulation of 500 flight hours, reapply CIC and grease in accordance with the service letter. Thereafter, repeat the application of CIC and grease at intervals not to exceed 500 flight hours.

(2) If any corrosion is detected, prior to further flight, repair the aft trunnion in accordance with the service letter. Accomplishment of this repair constitutes terminating action for the repetitive inspection requirements of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The actions shall be done in accordance with Boeing Service Letter 767–SL–32–067, dated August 4, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(g) This amendment becomes effective on September 29, 1995.

Issued in Renton, Washington, on September 7, 1995.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–22715 Filed 9–13–95; 8:45 am]

BILLING CODE 4910–13–U

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 240

[Release Nos. 33–7211; 34–36199]

Confidential Treatment Rules

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is modifying a procedural requirement concerning the number of unredacted copies of material filed with the Secretary of the Commission by issuers applying for a grant of confidential treatment. This modification reduces the number of unredacted copies from three or more copies to one copy.

EFFECTIVE DATE: October 16, 1995.

FOR FURTHER INFORMATION CONTACT: John Bernas at (202) 942–2915 or L. Jacob Fien-Helfman at (202) 244–2997, Division of Corporation Finance, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission today announces the adoption of amendments to Rule 406[1] under the Securities Act of 1933 (''the Securities Act'')[2] and Rule 24b–2[3] under the Securities Exchange Act of 1934 (''the Exchange Act'')[4]. Each rule is being revised for the limited purpose of reducing to one copy the unredacted material required to accompany a request for confidential treatment pursuant to either rule. In the case of Rule 406, the filing person is currently required to submit with the request for confidential treatment ''as many copies of the confidential portion, each clearly marked 'Confidential Treatment,' as there are copies of the material filed with the Commission.'' In the case of Rule 24b–2, the filing person is currently required to submit with the request for confidential treatment ''as many copies of the confidential portion, each clearly marked 'Confidential Treatment,' as there are copies of the material filed with the Commission and with any exchange where such material is required to be filed.''[5] Today's change in Rule 406 and Rule 24b–2 reduces the number of unredacted copies that are required to be submitted to the Secretary of the Commission with the request for confidential treatment to one copy in all circumstances.[6]

It is anticipated that these revisions will reduce the volume of paper processed and discarded by the Staff without reducing the Division's ability to process filings. This reduction should also increase security for confidential materials since the staff would handle only one unredacted copy. These revisions do not change the number of redacted copies of the materials required to be filed with the Commission's file desk.

These amendments relate solely to ''agency organization, procedure or practice.'' Consequently, their promulgation is not subject to the notice and comment requirements of the Administrative Procedures Act;[7] similarly, this rule making is not subject to the requirements of the Regulatory Flexibility Act.[8]

Statutory Basis

The amendments are being adopted pursuant to Section 19 of the Securities Act and Section 23 of the Exchange Act.

List of Subjects in 17 CFR Parts 230 and 240

Registration requirements; Reporting and recordkeeping requirements; Confidential treatment; Securities.

Text of the Amendment

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

[1] 17 CFR 230.406.

[2] 15 U.S.C. 77a *et. seq.*

[3] 17 CFR 240.24b–2.

[4] 15 U.S.C. 78a *et. seq.*

[5] Non-EDGAR filers currently are required to file three or more copies of filed material (See 17 CFR 229.406 and 17 CFR 240.12b–11) while EDGAR filers are required to file one copy of such materials (See 17 CFR 232.309(b)).

[6] In those instances when an application is denied, a prior grant revoked, or the information otherwise made public, the staff practice is to request that the applicant amend the initial filing to disclose the previously redacted information by contemporaneously filing the required number of copies without redactions.

[7] 5 U.S.C. 553(b).

[8] 5 U.S.C. 603, 604.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 continues to read, in part, as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o, 78w, 78*ll*(d), 79t, 80a–8, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

2. By amending § 230.406 by revising paragraphs (b)(1) and (b)(3), to read as follows:

§ 230.406 Confidential treatment of information filed with the Commission.

* * * * *

(b) * * *

(1) One copy of the confidential portion, marked ''Confidential Treatment,'' of the material filed with the Commission. The copy shall contain an appropriate identification of the item or other requirement involved and, notwithstanding that the confidential portion does not constitute the whole of the answer or required disclosure, the entire answer or required disclosure, except that in the case where the confidential portion is part of a financial statement or schedule, only the particular financial statement or schedule need be included. The copy of the confidential portion shall be in the same form as the remainder of the material filed;

* * * * *

(3) The copy of the confidential portion and the application filed in accordance with this paragraph (b) shall be enclosed in a separate envelope marked ''Confidential Treatment'' and addressed to The Secretary, Securities and Exchange Commission, Washington, DC 20549.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

3. The authority citation for part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78w, 78x, 78*ll*(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

4. By amending § 240.24b–2 by revising paragraph (b)(1), designating the flush text following paragraph (b)(2) as paragraph (b)(3), and revising newly designated paragraph (b)(3) to read as follows:

§ 240.24b–2 Nondisclosure of information filed with the Commission and with any exchange.

* * * * *

(b) * * *

(1) One copy of the confidential portion, marked ''Confidential Treatment,'' of the material filed with the Commission. The copy shall contain an appropriate identification of the item or other requirement involved and, notwithstanding that the confidential portion does not constitute the whole of the answer, the entire answer thereto; except that in the case where the confidential portion is part of a financial statement or schedule, only the particular financial statement or schedule need be included. The copy of the confidential portion shall be in the same form as the remainder of the material filed;

* * * * *

(3) The copy of the confidential portion and the application filed in accordance with this paragraph (b) shall be enclosed in a separate envelope marked ''Confidential Treatment'' and addressed to The Secretary, Securities and Exchange Commission, Washington, DC 20549.

* * * * *

Dated: September 7, 1995.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–22802 Filed 9–13–95; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–123–FOR; State Amendment No. 95–2]

Indiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Indiana permanent regulatory program (hereinafter referred to as the ''Indiana program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Indiana proposes to revise revegetation standards for success for nonprime farmland for surface and underground coal mining and reclamation operations under Indiana Code (IC) 13–4.1. The amendment is intended to improve operational efficiency.

EFFECTIVE DATE: September 14, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204, Telephone (317) 226–6166.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. Background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the July 26, 1982, **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 914.10, 914.15, and 914.16.

II. Submission of the Amendment

By letter dated May 3, 1995 (Administrative Record No. IND–1460), Indiana submitted a proposed amendment to its program pursuant to SMCRA. Indiana submitted the proposed amendment at its own initiative. This amendment revises 310 IAC 12–5–64.1 and 310 IAC 12–5–128.1 pertaining to success standards for revegetation on nonprime farmland for surface and underground coal mining operations under IC 13–4.1.

OSM announced receipt of the proposed amendment in the May 30, 1995, **Federal Register** (60 FR 28069), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on June 29, 1995.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

310 IAC 12–5–64.1 (Surface) and 12–5–128.1 (Underground) Revegetation Standards for Success for Nonprime Farmland

Since the revisions being proposed for surface mining at § 12–5–64.1(c) are

identical to those being proposed for underground mining at § 12–5–128.1(c), they will be combined for ease of discussion. These subsections provide the standards for success which are to be applied under the approved postmining land uses.

1. *Organizational and Reference Changes.* Indiana proposes paragraph notation changes to reflect the organizational changes made throughout subsections (c). Additionally, Indiana proposes revisions throughout subsections (c) to correct the reference to the ''Soil Conservation Service'' to the ''Natural Resources Conservation Service.''

The Director finds the organizational changes and the correction of the reference do not render the Indiana regulations at 310 IAC 12–5–64.1/128.1 less effective than the Federal regulations at 30 CFR 816/817.116.

2. *Subsections (c)(3)(B); Pastureland Production Success Standards.* Subsection (c)(3)(B) concern the production success standards for revegetated pastureland areas. Indiana is proposing to relocate the provision in existing subsections (c)(4), which requires that if the current Natural Resources Conservation Service predicted yield by soil map units is used to determine production of living plants, then the standard for success shall be a weighted average of the predicted yields for each unmined soil type which existed on the permit areas at the time the permit was issued, to subsections (c)(3)(B).

The Director finds this organizational change does not render the Indiana regulations less effective than the Federal regulations and is approving this modification.

3. *Subsections (c)(3)(C); Pastureland Production Success Standards Methodology.* Indiana is proposing to delete the existing provision in subsections (c)(3)(C) for determining production of living plants on pastureland and is proposing to add the following provision.

(C) A target yield determined by the following formula: Target Yield = NRCS Target Yield × (CCA/10 Year CA) where: NRCS Target Yield = the average yield per acre, as predicted by the Natural Resources Conservation Service, for the crop and the soil map units being evaluated. The most current yield information at the time of permit issuance shall be used, and shall be contained in the appropriate sections of the permit application. CCA = the county average for the crop for the year being evaluated as reported by the United States Department of Agriculture crop reporting service, the Indiana Agricultural Statistics Service. 10 Year CA = the ten (10) Year Indiana Agricultural Statistics Service county average, consisting of the year being evaluated and the nine (9) preceding years.

The Federal regulations at 30 CFR 816/817.116(a)(2) require that standards for success shall include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking. As discussed in the May 29, 1992, **Federal Register** (57 FR 22655), Indiana's average county yield data contains data of yields form previously mined lands. In letters dated February 26, 1992 (Administrative Record No. IND–1036 and IND–1037), OSM asked Indiana to clarify the use of this data. In letters dated March 20, 1992 (Administrative Record No. IND–1051 and IND–1052), Indiana stated that the amount of previously mined acreage being farmed is so limited that the inclusion of these yields essentially has no impact upon the overall yields calculated for the county average. Indiana also stated that it used the average county yield data as a weather correction factor applied to predicted soil mapping unit yields.

In the May 29, 1992, **Federal Register** (57 FR 22655, finding No. 1.c.), the Director found that the use of the Indiana average county yield data as the sole standard for determining success of revegetation would be less effective than the Federal regulations at 30 CFR 816/817.116.(a)(2). However, the Director found that the use of Indiana's average county yield data as a correction factor would not be inconsistent with the Federal regulations.

The currently proposed methodology is an acceptable way to calculate production standards for non-prime farmland pastureland. This method adjusts the weighted production standard based on soil type by using a factor derived by the county average and an average of the historical county average. The weighted production standard is already approved in the Indiana program and the adjustment of this standard by county average data is reasonable. Thus the Director finds that the proposed method for calculating success standards on nonprime farmland pasture at 310 IAC 12–5–64.1/128.1(c)(3)(C) is no less effective than the Federal requirements for success standards at 30 CFR 816/817.116(a)(2).

4. *Subsection (c)(3)(D)/(c)(5)(D); Other Success Standards.* Indiana is proposing to revise the language in the provisions moved from subsections (c)(3)(C) and (c)(5)(C) to new subsections (c)(3)(D) and (c)(5)(D), respectively. These provisions allow other success standards approved by the director of the Indiana Department of Natural Resources (IDNR) to be used in determining success of production of living plants on revegetated nonprime farmland pasture land and cropland areas. The provisions in (c)(3)(C) and (c)(5)(C) were previously approved by OSM on May 29, 1992 (57 FR 22655). The proposals would change the words ''Other success standards'' to ''Other methods.'' The ''methods'' referred to are methods to determine success standards. Therefore, the modifications to the relocated provisions at (c)(3)(D) and (c)(5)(D) are not substantial changes from what was previously approved at (c)(3)(C) and (c)(5)(C).

The Federal regulations at 30 CFR 816/817.116(a)(1) require that standards for success and statistically valid sampling techniques for measuring success shall be selected by the regulatory authority and included in an approved regulatory program. In letters dated March 20, 1992 (Administrative Record Nos. IND–1051 and IND–1052), Indiana stated that the IDNR will request approval by OSM for other standards prior to their use in the Indiana program if they vary significantly from the approved standards.

Based on the above discussion, the Director is approving the provisions at 310 IAC 12–5–64.1/128.1(c)(3)(D) and 12–5–64.1/128.1(c)(5)(D).

5. *Redesignations.* Existing subsections (c)(5) are redesignated subsections (c)(4) without any changes to the provisions. These subsections concern stocking levels and success standards for vegetation on areas to be developed as shelter belts or for fish and wildlife habitat, recreation or forestry land use.

Existing subsections (c)(6) are redesignated subsections (c)(5) with changes. The changes to redesignated (c)(5) are discussed in finding No. 4 and finding No. 6. These subsections concern the success standards for production on revegetated cropland areas.

Existing subsections (c)(7) are redesignated subsections (c)(6). Indiana is proposing to relocate the provision in existing subsections (c)(7), which requires that if the current Natural Resources Conservation Service predicted yield by soil map units is used to determine production of living plants then the standard for success shall be a weighted average of the predicted yields for each unmined soil type which existed on the permit areas at the time the permit was issued, to redesignated subsections (c)(5)(B). Indiana is also proposing to redesignate from existing subsections (c)(7) to

subsections (c)(5)(E) the provision which requires that once the method for establishing the standards has been selected, it may not be modified without the approval of the director of IDNR.

Existing subsections (c)(8) are redesignated subsections (c)(7) without change. These subsections concern revegetation success where barren areas exist within an area under evaluation.

The Director finds the proposed redesignations do not render the Indiana regulations less effective than the Federal regulations.

6. *Subsections (c)(5); Cropland Production Success Standards Methodology*. Indiana is proposing to delete the provision in existing subsections (c)(6)(C) for determining production of living plants on cropland and is proposing to add the following provision to redesignated subsections (c)(5)(C).

(C) A target yield determined by the following formula: Target Yield = CCA × (NRCSP/NRCSC) where: CCA = the county average for the crop for the year being evaluated as reported by the United States Department of Agriculture crop reporting service, the Indiana Agricultural Statistics Service. NRCSP = the weighted average of the current Natural Resources Conservation Service predicted yield for each croppable, unmined soil which existed on the permit at the time the permit was issued. NRCSC = the weighted average of the current Natural Resources Conservation Service predicted yield for each croppable, unmined soil which is shown to exist in the county on the most current county soil survey. A croppable soil is any soil which the Natural Resources Conservation Service has defined as being in capability class I, II, III, or IV.

The Federal regulations at 30 CFR 816/817.116(a)(2) require that standards for success shall include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking. The above discussion in finding No. 3, pertaining to Indiana's average county yield data containing data of yields from previously mined lands is also relevant to this proposed revision. As discussed in finding No. 3, the Director had previously found that the use of Indiana's average county yield data as a correction factor was not inconsistent with the Federal regulations.

Indiana's currently proposed methodology would modify the county average by a factor that uses the NRCS predicted standard for permitted unmined soils and a NRCS predicted standard that excludes mined land. Therefore, the Director is approving the provisions proposed at 310 IAC 12–5–64.1/128.1(c)(5)(C).

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received, and because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Indiana program. No comments were received from these agencies.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). The Director has determined that this amendment contains no provisions in these categories and that EPA's concurrence is not required.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA. On June 15, 1995 (Administrative Record No. IND–1489), EPA responded that it concurred on the proposed amendment without comment.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP. No comments were received.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Indiana on May 3, 1995.

The Director approves, as discussed in: finding No. 3, the provisions at 310 IAC 12–5–64.1/128.1(c)(3)(C), concerning a methodology for determining the success of production of living plants on nonprime pasture land areas; finding No. 4, the provisions at 310 IAC 12–5–64.1/128.1(c)(3)(D) and 12–5–64.1/128.1(c)(5)(D), concerning the director of IDNR's approval of other success standards to be used in determining success of production of living plants on revegetated nonprime farmland pasture land and cropland areas; finding No. 6, 310 IAC 12–5–64.1/128.1(c)(5)(C), concerning a methodology for determining the success of production of living plants on nonprime cropland areas.

The Federal regulations at 30 CFR Part 914, codifying decisions concerning the Indiana program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In the oversight of the Indiana program, the Director will recognize only the statutes, regulations and other materials approved by OSM, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Indiana of only such provisions.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and

its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 7, 1995.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 914.15 is amended by adding paragraph (kkk) to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(kkk) The following rules, as submitted to OSM on May 3, 1995, are approved effective September 14, 1995:

310 IAC 12–5–64.1(c) and 310 IAC 12–5–128.1(c) concerning standards for success for nonprime farmland for surface and underground coal mining reclamation operations.

[FR Doc. 95–22866 Filed 9–13–95; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 944

Utah Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Utah permanent regulatory program (hereinafter referred to as the ''Utah program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Utah proposed revisions to its rules pertaining to normal husbandry practices and the Utah ''Vegetation Information Guidelines.'' The amendment is intended to revise the Utah program to improve operational efficiency.

EFFECTIVE DATE: September 14, 1995.

FOR FURTHER INFORMATION CONTACT: Richard J. Seibel, Telephone: (303) 672–5501.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981, **Federal Register** (46 FR 5899). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16 and 944.30.

II. Submission of Proposed Amendment

By letter dated February 6, 1994, Utah submitted a proposed amendment to its program (administrative record No. UT–1025) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Utah submitted the proposed amendment at its own initiative. Utah proposed to revise its Coal Mining Rules at Utah Administrative Rule (Utah Admin. R.) 645–301–357.300 through 365 to specify normal husbandry practices that could be implemented without restarting the bond liability period. Utah also proposed to revise its ''Vegetation Information Guidelines,'' by adding a bibliography of referenced publications for the proposed normal husbandry practices.

OSM announced receipt of the proposed amendment in the March 15, 1995, **Federal Register** (60 FR 13935), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. UT–1034). Because no one requested a public hearing or meeting, none was held. The public comment period ended on April 14, 1995.

Durings its review of the amendment, OSM identified concerns relating to the provisions of Utah Admin. R. 645–301–357.340, Utah Admin. R. 645–301–357.350, and Appendix C of Utah's ''Vegetation Information Guidelines.'' OSM notified Utah of the concerns by letter dated May 23, 1995 (administrative record No. UT–1054). Utah responded in a letter dated June 5, 1995, by submitting a revised amendment that addressed OSM's concerns (administrative record No. UT–1059).

Based upon the revisions to the proposed program amendment submitted by Utah, OSM reopened the public comment period in the July 6, 1995, **Federal Register** (60 FR 35158; administrative record No. UT–1064). The public comment period closed on July 21, 1995.

III. Director's Findings

Utah submitted an amendment to its program revising Utah Admin. R. 645–301–357.300 through 645–301–357.356 to specify approved normal husbandry practices that could be implemented without restarting the period of extended responsibility for successful revegetation (bond liability period). Utah also proposed to revise its ''Vegetation Information Guidelines,'' by adding Appendix C, a bibliography of referenced publications that support the proposed normal husbandry practices. OSM has previously approved Utah's ''Vegetation Information Guidelines'' (56 FR 41803, August 23, 1991).

The Federal regulations at 30 CFR 816.116(c)(1) and 817.116(c)(1) require that the period of extended responsibility for successful revegetation shall begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding husbandry practices that are approved

by the regulatory authority in accordance with the Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4). The Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4) allow the regulatory authority to select normal husbandry practices if such practices are expected to continue as part of the postmining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Such practices must be normal husbandry practices within the region.

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds that the proposed program amendment submitted by Utah on February 6, 1995, and as revised by it on June 5, 1995, is no less effective than the Federal regulations at 30 CFR 816.116(c)(1) and (4) and 817.116(c)(1) and (4). Thus, the Director approves the proposed amendment. OSM's approval of the normal husbandry practices proposed at Utah Admin. R. 645–301–357.310 through 645–301–357.356 (findings Nos. 2 through 7 below) is predicated upon implementation of the general requirements proposed at Utah Admin. R. 645–301–357.301 through 645–301–357.304 (finding No. 1 below) for all normal husbandry practices.

1. Utah Admin. R. 645.301–357.300, General Requirements for Approval of Normal Husbandry Practices and Appendix C of Utah's ''Vegetation Information Guidelines''

Utah proposed, at Utah Admin. R. 645–301–357.301 through 645–301–357.304, general requirements for mining and reclamation plan approval of normal husbandry practices. Utah identified in proposed Utah Admin. R. 645–301–357.310 through 645–301–357.365 (discussed in findings Nos. 2 through 7 below) normal husbandry practices that would not restart the bond liability period. Utah proposed to include as general requirements for all such practices (1) that the permittee demonstrate that husbandry practices proposed for a reclaimed area are not necessitated by inadequate grading practices, adverse soil conditions, or poor reclamation procedures, (2) that the permittee consider the total area within the bond increment when calculating the extent of area that may be treated by husbandry practices, and (3) if necessary to seed or plant in excess of the limits set forth in its proposed rules, a separate extended bond liability period for the reseeded or replanted areas. Utah's proposed Admin. R. 645–301–357.301 also includes the requirements that (1) approved practices must be normal practices for unmined lands within the region which have similar land uses, (2) discontinuance of the practices after the end of the bond liability period must not jeopardize permanent revegetation success, and (3) if a permittee proposes practices that are not identified in Utah's program, the additional practices would need to be approved as part of the Utah program in accordance with the Federal regulations at 30 CFR 732.17.

In addition, Utah proposed to revise its ''Vegetation Information Guidelines,'' by adding Appendix C, a bibliography of referenced publications that support the normal husbandry practices proposed in Utah Admin. R. 645–301–357.

The Director finds that Utah's proposed Admin. R. 645–301–357.301 through 645–301–357.304 and Appendix C of Utah's ''Vegetation Information Guidelines'' are consistent with and no less effective than the Federal regulations concerning approval of normal husbandry practices at 30 CFR 816.116(c) (1) and (4) and 817.116(c) (1) and (4). The Director approves proposed Admin. R. 645–301–357.301 through 645–301–357.304 and Appendix C in Utah's ''Vegetation Information Guidelines.''

2. Utah Admin. R. 645–301–357.310 Through 645–301–357.312, Reestablishing Trees and Shrubs as a Normal Husbandry Practice

Utah proposed, at Utah Admin. R. 645–301–357.310 through 645–301–357.312, to allow as husbandry practices that would not restart the bond liability period: (1) Transplanting or reseeding 20 percent of the stocking rate for trees and shrubs during the first 40 percent, or through year 4, of the bond liability period; and (2) scalping of small areas in which to reseed shrubs, with the number of reseeded shrubs that can be counted towards success of revegetation limited to one per scalped area.

Utah Admin. R. 645–301–356.232 and the Federal regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii) require that trees and shrubs used in determining the success of stocking shall (1) be adequate for the plant arrangement, (2) be healthy, and (3) have been in place for not less than two growing seasons. These regulations also require that, at the time of bond release, at least 80 percent of the trees and shrubs used to determine success shall have been in place for 60 percent of the applicable minimum period of responsibility (''the 80/60 requirement'').

Because Utah's proposed rules state that only 20 percent of the stocking rate for trees and shrubs could be transplanted or reseeded through year 4 without restarting the liability period, Utah has ensured that trees and shrubs counted toward revegetation success have been in place for at least 6 years. This requirement exceeds the two growing season requirement and ensures that a determination of the 80/60 requirement can be made in accordance with Utah Admin. R. 645–301–356.232.

Therefore, the Director finds that Utah's proposed Admin. R.645–301–357.310 through 645–301–357.312 are consistent with the Federal regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii) and are no less effective than the Federal regulations concerning approval of normal husbandry practices at 30 CFR 816.116(c) (1) and (4) and 817.116(c) (1) and (4). The Director approves proposed Utah Admin. R.645–301–357.310 through 645–301–357.312.

3. Utah Admin. R. 645–301–357.320 through 645–301–357.324, Chemical, Mechanical, and Biological Weed Control and its Associated Revegetation as a Normal Husbandry Practice

Utah proposed, at Utah Admin. R. 645–301–357.320 through 645–301–357.324, to allow as husbandry practices that would not restart the bond liability period: (1) Chemical weed control following the Weed Control Handbook, published by the Utah State University Cooperative Extension Service; (2) mechanical weed control such as hand roguing, grubbing, and mowing; and (3) biological weed control such as selective grazing, Utah proposed to require that biological control of weeds through disease, insects, or other agents must be approved on a case-by-case basis by Utah and other appropriate agencies which have the authority to regulate the introduction or use of biological control agents. In addition, (1) proposed Utah Admin. R. 645–301–357.320 allows weed control for noxious weeds through the entire liability period and through the first 2 years of the liability period for other weeds and (2) proposed Utah Admin. R. 645–301–357.324 allows up to a total of 15 percent of a reclaimed area during the first 2 years of the liability period to be reseeded or replanted of areas if necessary due to weed control. After the first 2 years of the liability period, no more than 3 percent of the reclaimed area may be reseeded in any single year and no reseeding or replanting due to weed control is allowed after the first 6 years of the liability period, or after Phase II bond release, whichever comes

first, without restarting the bond liability period.

Because proposed Utah Admin. R. 645–301–357.320 allows control of only noxious weeds after the first 2 years of the bond liability period, Utah's proposed Admin. R. 645–301–357.324, allowing revegetation of areas damaged due to weed control after year 2 and through year 6 of the bond liability period, or through phase II bond release, applies only to the control of noxious weeds After year 6 of the bond liability period, or after phase II bond release, whichever comes first, any revegetation due to treatment of noxious or other weeds would restart the bond liability period. Prohibiting revegetation due to treatment of weeds after year 6 or after phase II bond release ensures that the permittee can demonstrate that the established vegetation is permanent and otherwise meets the general requirements for success of revegetation in the Federal regulations at 30 CFR 816.111 and 817.111.

The Director finds that Utah's proposed Admin. R. 645–301–357.320 through 645–301–357.324 are no less effective than the Federal regulations concerning approval of normal husbandry practices at 30 CFR 816.116(c) (1) and (4) and 817.116(c) (1) and (4). The Director approves proposed Admin. R. 645–301–357.320 through 645–301–357.324.

4. Utah Admin. R. 645–301–357.330 Through 645–301–357.332, Control of Pests Such as Big Game, Small Mammals, and Insects as a Normal Husbandry Practice

Utah proposed at Utah Admin. R. 645–301–357.330 through 645–301–357.332 to allow, as husbandry practices that would not restart the bond liability period, (1) control of big game and small mammals, approved on a case-by-case basis by Utah, the Utah Division of Wildlife Resources, and the appropriate land management agency or agencies, during the first 6 years of the liability period of until Phase II bond release, whichever comes first, and (2) control of insects throughout the liability period if it is determined, through consultation with an approval from the Utah Department of Agriculture or Cooperative Extension Service and the appropriate land management agency or agencies, that a specific practice is being performed on adjacent unmined lands.

Approvals by the Utah Division of Wildlife Resources, the appropriate land management agency or agencies, and/or the Utah Department of Agriculture or Cooperative Extension Service ensure that appropriate control methods will be used. Limiting such control to the first 6 years of the liability period or until phase II bond release allows the affected vegetation to become established. Prohibiting implementation of these control methods after year 6 or after phase II bond release ensures that the permittee can demonstrate that the established vegetation is permanent and otherwise meets the general requirements for success of revegetation in the Federal regulations at 30 CFR 816.111 and 817.111.

The Director finds that the Utah's proposed Admin. R. 645–301–357.330 through 645–301–357.332 are no less effective than the Federal regulations concerning approval of normal husbandry practices at 30 CFR 816.116(c) (1) and (4) and 817.116(c) (1) and (4). The Director approves proposed Admin. R. 645–301–357.320 through 645–301–357.324.

5. Utah Admin. R. 645–301–357.340 Through 645–301–357.343, Repair of Vegetation Due to Natural Disasters and Illegal Activities Occurring After Phase II Bond Release as a Normal Husbandry Practice

Utah proposed, at Utah Admin. R. 645–301–357.340 through 645–301–357.343, to allow as a husbandry practice that would not restart the liability period the seeding and planting of areas significantly affected by a natural disaster, such as wildfires, earthquakes, and mass movement originating outside the disturbed area but excluding climatic variation; or illegal activities, such as vandalism, which are not caused by any lack of planning, design, or implementation of the mining and reclamation plan on the part of the permittee. In addition, Utah will only allow such repair if the damage occurs after phase II bond release and requires that all applicable revegetation success standards must be achieved on the repaired areas.

Although Utah's proposed rules provide that repair of damaged revegetation caused by such natural disasters and illegal activities will not restart the liability period, the liability period may in fact be extended if the bond release area is not able to meet all applicable revegetation success standards. In addition, because Utah excluded climatic variation from consideration as a natural disaster, the permittee is not excused from demonstrating establishment of a diverse, effective, and permanent vegetative stand during normal periods of drought. Utah's allowance for such repair to occur without restarting the bond liability period after phase II bond release provides an incentive for permittees to seek and obtain phase II bond release.

Because the repair of vegetated areas would be necessitated on similar unmined land in the region if the same damage occurred, the Director finds that Utah's proposed Admin. R. 645–301–357.340 through 645–301–357.343 are not less effective than the Federal regulations concerning approval of normal husbandry practices at 30 CFR 816.116(c) (1) and (4) and 817.116(c) (1) and (4). The Director approves proposed Admin. R. 645–301–357.340 through 645–301–357.343.

6. Utah Admin. R. 645–301–357.350, Irrigation of Transplanted Trees and Shrubs as a Normal Husbandry Practice

Utah proposed, at Utah Admin. R. 645–301–357.350, to allow irrigation of transplanted trees and shrubs as a husbandry practice that would not restart the bond liability period. Utah also submitted a letter from the U.S. Forest Service, Department of Agriculture, dated April 8, 1994, documenting that irrigation of seedlings during the first growing season is a common practice in establishing trees and shrubs.

Utah demonstrated that irrigation of trees and shrubs is a common practice within the region for unmined lands having land similar to the approved postmining land use of the disturbed area. Because Utah limited irrigation of transplanted trees and shrubs to the first 2 years of the liability period, Utah has ensured that discontinuance of the practice will not effect the demonstration of permanent revegetation success.

The Director finds that Utah's proposed Admin. R. 645–301–357.350 is not less effective than the Federal regulations concerning approval of normal husbandry practices to 30 816.116(c) (1) and (4) and817.116(c) (1) and (4). The Director approves proposed Admin. R. 645–301–357.350.

7. Utah Admin. R. 645–301–357.360 Through 645–301–357.365, Highly Erodible Area and Rill and Gully Repair as a Normal Husbandry Practice

Utah proposed, at Utah Admin. R. 645–301–357.340 through 645–301–357.343, to allow as a husbandry practice that would not restart the liability period the repair of highly erodible areas and rills and gullies during the first 20 percent of the bond liability period, if the affected area comprises no more than 15 percent of the disturbed area and if no continuous area to be repaired is larger than one acre. Furthermore, Utah proposed that after the first 20 percent of the bond

liability period but prior to the end of the first 60 percent of the liability period or until Phase II bond release (whichever comes first), the repair of any areas greater than 3 percent of the total disturbed area or any continuous area larger than 1 acre will be considered augmentative and will restart the liability period. After the end of the first 60 percent of the liability period or after Phase II bond release, and rill and gully repair would restart the liability period. Utah also submitted as copy or the U.S. Nation Resource Conservation Service (NRCS) Critical Area Planting Guide for the State of Utah.

Because Utah has clearly and reasonably defined when an operator must consider the repair of rills and gullies an augmentative practice that would restart the liability period and submitted NRCS documentation which demonstrates that the repair of rills and gullies are supported by NRCS as an acceptable land management technique for similar situations in the State of Utah, the Director finds that Utah's proposal for the repair or fills and gullies as a normal husbandry practice is not less effective than the Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4). The Director approves Utah Admin. R. 645–301–357.340 through 645–301–357.343.

IV. Summary and Disposition of Comments

Following are summaries of all substantive written comments on the proposed amendment that were received by OSM, and OSMs responses to them.

1. Public Comments

OSM invited public comments on the proposed amendment, but none were received.

2. Federal Agency Comments

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Utah program.

The U.S. Bureau of Mines responded on March 10, 1985, that it has no comments on the proposed amendment (administrative record No. UT–1030).

The U.S. Army Corps of Engineers responded on March 15 and July 12, 1995, that it found the proposed amendment to be satisfactory (administrative record Nos. UT–1033 and UT–1069).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(b)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that Utah proposed to make in its amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (administrative record No. UT–1027). EPA did not responded to OSM's request.

4. State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP (administrative record No. UT–1027). Neither SHPO nor ACHP responded to OSM's request.

V. Director's Decision

Based on findings nos. 1 through 7, the Director approves the proposed amendment concerning normal husbandry practices as submitted by Utah on February 6, 1995, and as revised on June 5, 1995.

The Federal regulations at 30 CFR Part 944, codifying decisions concerning the Utah program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumption for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 6, 1995.

Richard J. Seibel,

Regional Director, Western Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 944—UTAH

1. The authority citation for Part 944 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 944.15 is amended by adding paragraph (gg) to read as follows:

§ 944.15 Approval of amendments to the Utah regulatory program.

* * * * *

(gg) The following revisions to or additions of the following sections of the Utah Administrative Rules (Utah Admin. R.) for Coal Mining, and the addition of Appendix C, to Utah's ''Vegetation Information Guidelines,'' as submitted to OSM on February 6, 1995, and revised on June 5, 1995, are approved effective September 14, 1995.

[FR Doc. 95–22865 Filed 9–13–95; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 950

Wyoming Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Wyoming regulatory program (hereinafter referred to as the ''Wyoming program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Wyoming proposed revisions to its mining statute pertaining to procedures for notifying surface land owners, oil and gas well owners, and oil and gas lease holders, of proposed coal mining operations where the land, well, or lease is situated within or near the permit area in question. The amendment is intended to reduce the costs of the Wyoming program while retaining consistency with the corresponding Federal regulations and SMCRA.

EFFECTIVE DATE: September 14, 1995.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–5824.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program

On November 26, 1980, the Secretary of the Interior conditionally approved the Wyoming program. General background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Wyoming program can be found in the November 26, 1980, **Federal Register** (45 FR 78637). Subsequent actions concerning Wyoming's program and program amendments can be found at 30 CFR 950.11, 950.12, 950.15, 950.16, and 950.20.

II. Proposed Amendment

By letter dated June 2, 1995, Wyoming submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. WY–30–01). Wyoming submitted the proposed amendment at its own initiative. The provision of the Environmental, Quality Act that Wyoming proposed to revise is: Wyoming Statute (WS) 35–11–406(j), public notice procedures for permit applications.

OSM announced receipt of the proposed amendment in the June 14, 1995, **Federal Register** (60 FR 31265), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. WY–30–10). Because no one requested a public hearing or meeting, none was held. The public comment period ended on July 14, 1995.

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds that the proposed program amendment submitted by Wyoming on June 2, 1995, is no less stringent than SMCRA. Accordingly, the Director approves the proposed amendment.

At WS 35–11–406(j), Wyoming provides (in part) requirements for mailing copies of the notice of a permit application to surface owners, operators of oil and gas wells, and lessees of record of oil and gas leases. The State proposes to revise these requirements by: (1) Clarifying that such mailings need to be done only for ''* * * initial applications or additions of new lands * * *''; (2) deleting the requirement that the notice be mailed to oil and gas operators or holders of oil and gas leases; (3) adding a requirement that the applicant shall mail a copy of the mining plan map to the Wyoming Oil and Gas Commission; and (4) adding a requirement that a ''sworn statement'' of the mailing of the mining plan map become part of the application.

SMCRA, at Section 507(b)(6)—Application Requirements, requires that at the time of submission of an application, a copy of an advertisement that describes location and boundaries of the proposed cooperation, to be published in a local paper, be included in the application. Section 513—Public Notice and Public Hearings, additionally requires such an advertisement for a permit revision as well and further requires that the regulatory authority notify various local government bodies, planning agencies, etc. in the locality of the proposed surface mining.

SMCRA does not require an applicant to mail a copy of the newspaper notice to surface owners, gas or oil operators, or oil and gas lease holders. The proposed modifications to Wyoming's statute would provide for public notice requirements that go beyond the Federal program requirements. Further, these requirements are not in conflict with or inconsistent with SMCRA. The Director is therefore approving them.

IV. Summary and Disposition of Comments

Following are summaries of all substantive written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

1. Public Comments

OSM invited public comments on the proposed amendment. None were received.

2. Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Wyoming program.

The Mine Safety and Health Administration (MSHA), (Denver, Colorado) responded that the amendment does not appear to conflict with any current MSHA regulations. (administrative record No. WY–30–09).

The Bureau of Land Management (BLM) expressed concern that the oil and gas operators or lessees would not be notified on new permits or where lands are added. The agency noted that occasionally conflicts between development of the two minerals (coal and oil/gas) have been encountered. BLM opposes the change to the present language unless there will be some mechanism in place for the Wyoming

Oil and Gas Commission to notify Operators of any potential conflict. (administrative record No. WY–30–11).

The State agency responsible for the issuance of oil and gas permits is the Wyoming Oil and Gas Commission. Notification by the State regulatory authority, to such agencies who have authority to issue licenses and permits, is required by the Federal program. Those agencies having knowledge of existing or potential conflicts within their areas of jurisdiction are responsible for submitting comments and/or taking other appropriate actions to avoid or resolve any conflicts. As discussed in the finding, the requirement to notify individual operators or lease holders of gas and oil interests goes beyond the requirements of the Federal program. OSM cannot require standards beyond those of the Federal program. However, if such standards are proposed by a State and are not in conflict or inconsistent with Federal Program requirements, they can be approved.

The U.S. Army Corps of Engineers responded that it found the changes to be satisfactory. (Administrative record No. WY–30–12).

The Mine Safety and Health Administration (Arlington, Virginia) responded that the amendment has no apparent impact upon miners' health and safety and that MSHA jurisdiction does not extend into State administrative requirements for reclamation permit applicants' public notices. (administrative record No. WY–30–13).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

On June 7, 1995, OSM solicited EPA's comments on the proposed amendment (administrative record No. WY–30–06). even though none of the revisions that Wyoming proposed to make in its amendment pertain to air or water quality standards. EPA did not respond to OSM's request.

4. State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP (administrative record Nos. WY–30–04 and WY–30–03). The Wyoming Department of Commerce, Division of Cultural Resources (SHPO) responded on June 13, 1995, that it had no objections provided that OSM follows the procedures established in accordance with Section 106 of the National Historic Preservation Act and Advisory Council regulations at 36 CFR 800. As a Federal agency, OSM is obligated to follow the above requirements. (administrative record No. WY–30–08). The ACHP did not respond to OSM's request.

V. Director's Decision

Based on the above finding, the Director approves Wyoming's proposed amendment at WS 35–11–406(j), concerning public notice procedures for permit applications, as submitted on June 2, 1995.

The Federal regulations at 30 CFR part 950, codifying decisions concerning the Wyoming program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et. seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 5, 1995.

Richard J. Seibel,

Regional Director, Western Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 950—WYOMING

1. The authority citation for part 950 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 950.15 is amended by adding paragraph (w) to read as follows:

§ 950.15 Approval of amendments to the Wyoming regulatory program.

* * * * *

(w) revisions to WS 35–11–406(j) concerning public notice procedures for permit applications, as submitted to OSM on June 2, 1995, are approved effective September 14, 1995.

[FR Doc. 95–22864 Filed 9–13–95; 8:45 am]
BILLING CODE 4310–05–M

National Park Service

36 CFR Part 7

RIN 1024–AC28

Pictured Rocks National Lakeshore; Hunting Closure

AGENCY: National Park Service, Interior.
ACTION: Final rule.

SUMMARY: This rule closes certain developed and high visitor use areas of the lakeshore to hunting in the interest of public safety. Hunting in these developed and high visitor use areas constitutes a hazard to the safety of the visiting public.

EFFECTIVE DATE: This final rule becomes effective October 16, 1995.

FOR FURTHER INFORMATION CONTACT: Larry Hach, Chief of Visitor Services and Land Management, Pictured Rocks National Lakeshore, P.O. Box 40, Munising, MI 49862. Telephone (906) 387–2607.

SUPPLEMENTARY INFORMATION:

Background

Pictured Rocks National Lakeshore's legislative authority, Public Law 89–668 (80 Stat. 922), states ''The Secretary, after consultation with the Michigan Department of Conservation, may designate zones and establish periods where and when no hunting shall be permitted for reasons of public safety, administration, or public use and enjoyment.'' Pictured Rocks National Lakeshore has already consulted with the Michigan Department of Natural Resources on this issue, as well as with other interested groups including the Michigan United Conservation Clubs, area hunters, and other interested local individuals.

The National Park Service's Management Guidelines (specifically Chapter 8, ''Use of the Parks'') state that the protection of park visitors and providing for visitor safety is a primary goal of park management, and that the Service may establish regulations or closures that are more restrictive than applicable State regulations based on a finding that such restrictions are necessary for public safety, resource protection, or visitor enjoyment. With the increased amount of visitors to the lakeshore in recent years (CY 94 visitation was 583,131) and the increase of hunting activities within lakeshore boundaries, an increased possibility exists of hazards to the safety of the public due to hunting activity in the developed and high visitor use areas.

Hunting in the lakeshore is managed according to the State of Michigan Department of Natural Resources hunting regulations, Federal migratory waterfowl regulations, and those specific hunting regulations contained in the Superintendent's Compendium (Orders). Continuing under the existing guidelines is dangerous from a safety point of view. At the same time, a total ban on hunting is neither practical nor necessary. This limited hunting closure is in accordance with stated overall management objectives for the administration of lands of the National Park System.

Much of the high public use area at the western end of the lakeshore is situated within the corporate limits of the City of Munising where the discharge of a firearm is already prohibited. The lakeshore's developed areas, such as campgrounds, parking lots, and overlooks, are heavily used by the visiting public. Hunting in such heavily used areas constitutes a hazard to the safety of the visiting public. While State of Michigan regulations currently permit hunting within road rights-of-way (ROW's), the heavy volume of traffic on National Park Service (NPS)-owned paved roads within the lakeshore makes hunting within these ROW's not conducive to the promotion of visitor safety and enjoyment. The heaviest public use period for the lakeshore occurs between April 1 and Labor Day when the lakeshore receives approximately 73 percent of its annual visitation. During this period, the regulation would prohibit hunting within the lakeshore.

On January 23, 1995, the NPS published proposed regulations that would close developed and high visitor use areas of the lakeshore to hunting in the interest of public safety (60 FR 4394). Public comment was invited. The comment period closed March 24, 1995.

Summary of Comments Received

During the public comment period, the NPS received eight written comments regarding the proposed rule. Four comments supported the closures, some asking for increased closures. Four were opposed to the closures, either in part or in whole. An analysis was made of the public comments. After considering all public comments, the NPS has decided to proceed with a final rule on the hunting closures.

A summary of specific comments by broad subject and the agency's response to these comments follows.

1. *Comment: Hunting closure areas are already restricted to hunting by local or state regulations.* A few respondents felt that the closure areas were already restricted to hunting activities by current local or state regulations. They felt that peak hunter density never exceeds a fraction of a hunter per square mile and there has never been an accident in the lakeshore involving hunters.

Response: A City of Munising ordinance prevents the discharge of a firearm within the city limits. However, the city does not enforce this ordinance in the forested areas of the lakeshore, within the city limits. Because the lakeshore does not have the authority to enforce the city's ordinance, it goes unenforced. Each year hunting activity takes place in the Becker Field, Munising ski trails and on Sand Point. All of these areas are within the city limits of Munising.

Michigan DNR hunting regulations define a Safety Zone within 450 feet of occupied dwellings (residences) or associated buildings. This regulation has no correlation to the developed public use areas of the lakeshore, such as drive-in campgrounds, overlooks, parking lots or other high use visitor buildings. Despite heavy public use, none of these lakeshore facilities serve as a ''dwelling or associated building.'' The DNR regulation, therefore, does not apply.

While State of Michigan regulations currently permit hunting within road rights-of-way, the heavy volume of traffic on NPS-owned paved roads within the lakeshore makes hunting within these ROW's not conducive to the promotion of visitor safety and enjoyment. Several conflicts between hunters and non-hunters occur each hunting season within these ROW's that could directly affect the safety of the visiting public.

Although there has not been a documented accident in the lakeshore involving hunting, there have been several documented incidents in each of the past few years, in the developed areas, involving hunter and non-hunter contacts signed by one or both parties as constituting a safety hazard. With the increased number of visitors to the lakeshore, and the increase of hunting activities within the lakeshore boundaries, contacts between hunters and non-hunters directly affect the safety of the visiting public in the developed and high visitor use areas.

Although hunter density per square mile throughout the entire lakeshore is

fairly low, having hunting activity in such close proximity to developed and high visitor use areas constitutes a public safety hazard.

2. *Comment: Impact on hunters by the closured areas.* A few commenters stated that these closures could have minimal impact on current hunting groups, but were worried about the lakeshore closing down other areas in the future. They were also concerned that hunters would not be able to access legal hunting areas through these closure areas.

Response: There is no guarantee that future developed and high visitor use lakeshore areas would not be closed to hunting, based on a finding that such restrictions are necessary for public safety, resource protection or visitor enjoyment. Future park developments and visitor areas that attain higher public use could also be closed to hunting for the same public safety reasons.

The closure areas were closely scrutinized to include only those areas where hunting restrictions were necessary for public safety. The closures are not an attempt to slowly close off the entire lakeshore to hunting because the park's enabling legislation mandates that hunting shall be permitted in administering the lakeshore. The legislation also states that, after consultation with the Michigan DNR, the lakeshore may designate zones and establish periods where and when no hunting shall be permitted for reasons of public safety.

Hunters would be allowed access to legal hunting areas through the closure areas, but they could not conduct any hunting while in the closure areas.

3. *Comment: The hunting closure process was handled very openly and fairly.* One respondent stated that the hunting closure process was very open. The person also appreciated that discussions were held with various public groups so that the proposal could be tailored to serve all constituencies fairly.

Response: The lakeshore consulted with the Michigan Department of Natural Resources on this issue, as well as with other interested groups, including the Michigan United Conservation Clubs, area hunters and other local individuals. These various groups were consulted and kept well informed throughout the entire rulemaking process. Information gained from these consultations greatly aided in defining the specific closure areas. Throughout the rulemaking process, treating all constituencies (general public and hunting groups) fairly was a high concern of lakeshore management.

4. *Comment: A need to postpone the opening hunting date to October 15 or later.* One reviewer wanted the opening date for lakeshore hunting postponed to October 15, rather than the day after Labor Day. He also felt there was a need to close more than 2 percent of the lakeshore to hunting during the fall visitor season.

Response: The heaviest public use period occurs between April 1 and Labor Day when the lakeshore receives approximately 73 percent of its annual visitation. Visitor use after Labor Day decreases dramatically and contacts rarely occur between hunters and non-hunters that could affect the safety of the visiting public. Opening the lakeshore to hunting the day after Labor Day allows hunters to pursue bear during Michigan's bear hunting season within the Upper Peninsula.

The developed and high visitor use areas of the lakeshore, which constitute approximately 2 percent of park land, are where an increased possibility exists of contacts between hunters and non-hunters, directly affecting the safety of the visiting public. Over the last several years the lakeshore has witnessed both an increase in total park visitation and hunting activities. Throughout the rest of the lakeshore, in the more undeveloped and less used areas, the possibility of these same safety hazards occurring decreases dramatically.

5. *Comment: Expand the hunting closure areas to include other areas of the lakeshore.* Two respondents felt that the proposed closure areas should also include all backcountry campgrounds, lakeshore hiking trails and the groomed cross-country ski trails.

Response: The lakeshore's developed areas, such as drive-in campgrounds, parking lots and overlooks, are the areas most heavily used by the public. The backcountry areas of the lakeshore, such as backcountry campgrounds, hiking trails, and cross-country ski trails, receive only a fraction of the annual visitor use. Hunter/non-hunter contacts occur very infrequently in the backcountry areas. These backcountry areas were considered for closure, but the potential hazard to the safety of the public was considered minimal and insufficient to warrant closure. The increases in park visitation over the last several years have occurred primarily in the more developed and high use areas of the lakeshore. Closing these backcountry areas to hunting would have little effect on public safety.

6. *Comment: Disagreement with the summer hunting closure and comparing the lakeshore with Michigan State Parks.* A few commenters disagreed with the closing of the lakeshore to hunting from April 1 to Labor Day. They also felt it was not fair to compare the lakeshore hunting closure period with that of Michigan State Parks.

Response: The heaviest public use period for the lakeshore occurs between April 1 and Labor Day, when the lakeshore receives approximately 73 percent of its annual visitation. There is very little hunting activity during this period, since the only legal hunting for game species that can be done is for coyote and for certain animals for which there is ''no closed season.'' With the high visitor use during the summer period in the developed areas, even allowing this level of hunting activity constitutes a public safety hazard.

Michigan DNR hunting regulations close all state parks to hunting from April 1 through September 14. Michigan State Parks have developed and high visitor use areas, similar to the national lakeshore, that are closed to hunting during the summer visitor use season. The lakeshore closure period would be through Labor Day, to allow for the start of the Michigan bear hunting season in the Upper Peninsula. This closure would be similar to Michigan State Park hunting management, with the exception of opening the national lakeshore to hunting earlier in September than in the State parks.

State park acreage closed to hunting in developed areas amounts to less area closed than what would be closed in the lakeshore. This is primarily due to the fact that most state parks are appreciably smaller in total land size when compared with the national lakeshore. Pictured Rocks has more land and therefore more total acreage that would be closed to hunting for public safety reasons.

Effective Date

The final rule establishes regulations that will close developed and high visitor use areas of the lakeshore to hunting in the interest of public safety. The lakeshore will maintain a list of these closed areas, and specific descriptions of the same, for the information of the general public. This rule becomes effective 30 days from the date of publication in the **Federal Register**.

Drafting Information

The author of these regulations is Larry Hach, Chief of Visitor Services and Land Management, Pictured Rocks National Lakeshore.

Paperwork Reduction Act

This final rule does not contain information collection requirements that require approval by the Office of

Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

This rule was not subject to Office of Management and Budget review under Executive Order 12866. The Department of the Interior determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*). The economic effects of this rulemaking are local in nature and negligible in scope.

The National Park Service has determined that this rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce non-compatible uses that may compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent land owners or occupants.

Based on this determination, the regulation is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA; 42 USC 4321, et seq.) and by Departmental guidelines in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects in 36 CFR Part 7

National parks; Reporting and record keeping requirements.

In consideration of the foregoing, 36 CFR chapter I is amended as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); sec. 7.96 also issued under D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

2. Section 7.32 is amended by adding paragraph (c) to read as follows:

§ 7.32 Pictured Rocks National Lakeshore

* * * * *

(c) Hunting. The following lakeshore areas are closed to hunting:

(1) Sand Point area. All that portion of Sand Point described as the area below the top of the bluff in Sections 19 and 30, T47N, R18W, and that area situated within the corporate limits of the City of Munising, including the Sand Point Road.

(2) Developed public use areas.

(i) The area within 150 yards of any campsite located within the Little Beaver, Twelvemile Beach, and Hurricane River Campgrounds.

(ii) The area within 150 yards of the Miners Castle overlooks, paved walkways and vehicle parking lot. Also 100 feet from the centerline of the paved Miners Castle Road and the area within 100 feet of Miners Falls parking lot, trail and associated platforms.

(iii) The area within 100 feet of: the Chapel Falls parking lot; the Little Beaver backpacker parking lot; the Twelvemile Beach picnic area parking lot; the Log Slide parking lot, platforms and walkways; the Grand Sable Lake picnic area and parking lot; the Grand Sable Lake boat launch and parking lot; the Grand Sable Lake overlook parking lot.

(iv) The area within 150 yards of any structure at the Au Sable Light Station, and within 100 feet of the trail between the lower Hurricane River Campground and the light station.

(v) The area within 150 yards of the Sable Falls parking lot and building, including the viewing platforms and associated walkway system to the mouth of Sable Creek. Also included is the area 100 feet from the centerline of the paved Sable Falls Road.

(vi) The area within 150 yards of: the Grand Sable Visitor Center parking lot and barn; the structures comprising the Grand Marais quarters and maintenance facility.

(vii) The 8.6 acre tract comprising structures and lands administered by the National Park Service on Coast Guard Point in Grand Marais.

(3) Hunting season. Hunting is prohibited parkwide during the period of April 1 through Labor Day.

Dated: August 17, 1995.

Robert P. Davison,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–22747 Filed 9–13–95; 8:45 am]

BILLING CODE 4310–70–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–13; RM–8156, RM–8234]

Radio Broadcasting Services; Blanchard, LA and Stephens, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule; application for review.

SUMMARY: The Commission denies an application for review filed by Arkansas Wireless Company (''Wireless'') of the action taken by the Assistant Chief of the Allocations Branch in MM Docket No. 93–13, allotting Channel 271C3 to Blanchard, Louisiana and denying Wireless' competing counterproposal to allot Channel 271A to Stephens, Arkansas (58 FR 51787, October 5, 1993). The Commission denies the application for review because the underlying decision followed applicable legal precedent in allotting the channel to the more populous community. The Commission also dismisses as moot a motion for stay filed by Wireless seeking a stay of the application filing window.

EFFECTIVE DATE: September 14, 1995.

FOR FURTHER INFORMATION CONTACT: Mania K. Baghdadi, Mass Media Bureau, (202)776–1653.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order,* MM Docket No. 93–13, adopted July 31, 1995, and released on September 11, 1995. The full text of this Commission decision is available for public inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–22834 Filed 9–13–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 86–388; RM–5385]

Television Broadcasting Services; Kenansville, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On application for review, the Commission affirmed the grant of the request of the Meredith Corporation (RM–5835) to allot UHF television Channel 31 to Kenansville, Florida for the provision of its first local television

service. The Chief, Policy and Rules Division, had granted Meredith's request by *Memorandum Opinion and Order*, 55 FR 17756, published April 27, 1990. With this action, the proceeding is terminated.

EFFECTIVE DATE: September 14, 1995.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 418–2100.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order,* MM Docket No. 86–388, adopted July 31, 1995 and released September 11, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in Commission's Reference Center (Room 239), 1919 M Street NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–22833 Filed 9–13–95; 8:45 am]

BILLING CODE 6712–01–F

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1801, 1804, 1812, 1813, 1814, 1815, 1819, 1825, 1834, 1835, 1836, 1852, 1853, and 1870

[NASA FAR Supplement Directive 89–20]

RIN 2700–AB85

Acquisition Regulation; Miscellaneous Amendments to NASA FAR Supplement

AGENCY: Office of Procurement, Acquisition Liaison Division, National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document amends the NASA Federal Acquisition Regulation Supplement (NFS) to reflect a number of miscellaneous changes dealing with NASA internal and administrative matters, such as the NASA FAR Supplement rewrite and reporting of contract data by NASA procurement offices.

EFFECTIVE DATE: October 1, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. David K. Beck, (202) 358–0482.

SUPPLEMENTARY INFORMATION:

Availability of NASA FAR Supplement

The NASA FAR Supplement, of which this rule is a part, is available in its entirety on a subscription basis from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, telephone number (202) 512–1800. Cite GPO Subscription Stock Number 933–003–00000–1. It is not distributed to the public, either in whole or in part, directly by NASA.

Rewrite of NASA FAR Supplement

NASA is reviewing and rewriting 48 CFR chapter 18, the NASA FAR Supplement, in its entirety in order to implement recommendations of the National Performance Review. During this review, NASA is eliminating reporting requirements and making other changes in order to reduce and simplify the regulation. This rule is part of the effort to simplify NASA's regulations.

Summary of Changes

Unnecessary words in subparts 1801.6 and 1801.7 are eliminated. Sections 1801.603 and 1801.670 are substantially reduced in order to rely primarily on FAR guidance on delegation of contracting officer authority. Section 1801.703 is substantially reduced in order to rely primarily on FAR guidance on class determinations and findings (D&F's). Section 1801.770 is added on legal review of D&F's prior to signature. In subpart 1804.6, instructions are revised concerning data elements required to be reported by NASA procurement offices. Sections 1804.672 and 1852.204–70, Report on NASA Subcontracts, are removed. Section 1804.674 on subcontract reporting is removed because it is already covered by subpart 1819.7.

Paragraph 1834.005–1(k) is removed because it unnecessarily duplicates instructions in subpart 1804.6. Other sections are amended as a result of Federal Acquisition Circulars 90–29 and 90–31.

Impact

NASA certifies that this regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

List of Subjects in 48 CFR Parts 1801, 1804, 1812, 1813, 1814, 1815, 1819, 1825, 1834, 1835, 1836, 1852, 1853, and 1870

Government procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR parts 1801, 1804, 1812, 1813, 1814, 1815, 1819, 1825, 1834, 1835, 1836, 1852, 1853, and 1870 are amended as follows.

1. The authority citation for 48 CFR parts 1801, 1804, 1812, 1813, 1814, 1815, 1819, 1825, 1834, 1835, 1836, 1852, 1853, and 1870 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1801—FEDERAL ACQUISITION REGULATIONS SYSTEM

Subpart 1801.1—Purpose, Authority, Issuance

1801.102, 1801.103, 1801.104, 1801.104–1, 1801.104–2, 1801.104–3, 1801.104–370, 1801.105 [Redesignated]

2. Sections 1801.102, 1801.103, 1801.104, 1801.104–1, 1801.104–2, 1801.104–3, 1801.104–370, and 1801.105 are redesignated as 1801.103, 1801.104, 1801.105, 1801.105–1, 1801.105–2, 1801.105–3, 1801.105–370, and 1801.106.

3. In paragraph (b) of the newly designated section 1801.105–1, the citation ''1801.104–1(b)'' is revised to read ''1801.105–1(b)''.

Subpart 1801.6—Career Development, Contracting Authority, and Responsibilities

4. In section 1801.602–3, paragraph (a) is revised to read as follows:

1801.602–3 Ratification of unauthorized commitments.

(a) *Policy*. Individuals making unauthorized commitments may be subject to disciplinary action, and the issue may be referred to the Office of Inspector General.

* * * * *

5. Section 1801.603–2 is revised to read as follows:

1801.603–2 Selection.

(a) *Policy*. Normally, only GS–1105 and GS/GM–1102 personnel with the proper training and experience may be appointed contracting officers.

(b) *Organizational need determination*. NASA contracting officers shall be appointed only when a valid organizational need can be demonstrated. Factors to be considered in assessing the need for a contracting

officer include volume of actions, complexity of work, and organizational structure.

1801.603–3, 1801.603–4 [Removed]

6. Sections 1801.603–3 and 1801.603–4 are removed.

7. Section 1801.670 is revised to read as follows:

1801.670 Delegations to contracting officer's technical representatives (COTRs).

A COTR delegation may be made only by the contracting officer cognizant of that contract at the time the delegation is made. If the cognizant contracting officer is absent, the delegation letter may be signed by a warranted contracting officer at any level above the cognizant contracting officer. An individual COTR may have only the duties specifically identified in a written delegation to him or her by name (i.e., COTR duties may not be delegated to a position) and has no authority to exceed them. COTRs should be informed that they may be personally liable for unauthorized commitments. Contracting officer authority to sign or authorize contractual instruments should not be delegated through a COTR designation or by any means other than a contracting officer warrant.

Subpart 1801.7—Determinations and Findings

1801.703 [Removed]

8. Section 1801.703 is removed.

1801.704 [Amended]

9. In section 1801.704, the first sentence is removed.

1801.770 [Added]

10. Section 1801.770 is added to read as follows:

1801.770 Legal review.

Each determination and finding (D&F), including class D&Fs, shall be reviewed by counsel for form and legality before the signature, in accordance with FAR 1.701, is obtained.

PART 1804—ADMINISTRATIVE MATTERS

Subpart 1804.6—Contract Reporting

11. Section 1804.601 is revised to read as follows:

1804.601 Record requirements.

The Headquarters Analysis Division (Code HC) is responsible for meeting the requirements of FAR 4.601, based on installation submission of Individual Procurement Action Reports (NASA Form 507 series) data.

12. Section 1804.671 is revised to read as follows:

1804.671 Individual Procurement Action Report (NASA Form 507 series).

The Individual Procurement Action Report and Supplements (NASA Form 507 series) provide essential procurement records and statistics through a single uniform reporting program as a basis for required recurring and special reports to Congress, Federal Procurement Data Center, and other Federal agencies. The preparation and utilization of the NASA Form 507 series are an integral part of the agencywide Financial and Contractual Status (FACS) system.

13. Section 1804.671–1 is revised to read as follows:

1804.671–1 Applicability and coverage.

The following procurement actions are individually reportable and require the completion of one or more of the forms in the 507 series.

(a) *Initial basic procurements.*

(1) All contracts, regardless of dollar obligation amount.

(2) All grants, cooperative agreements, and Space Act agreements.

(3) Intragovernmental procurements and purchase orders when the initial value is more than $25,000.

(4) All contracts and purchase orders for consulting services.

(5) Purchase orders of $25,000 or less for services within the four designated industry groups identified at FAR 19.1005(a) under the Small Business Competitiveness Demonstration Program. (These actions are not FACS reportable, but are required for FPDS reports.)

(b) *Modifications.* Modifications that—

(1) Obligate or deobligate funds, regardless of dollar amount,

(2) Change the estimated cost and/or fee,

(3) Extend the completion date, or

(4) Add or change procurement statistics previously reported are reportable.

1804.671–2 [Removed and Reserved]

14. Section 1804.671–2 is removed and reserved.

15. Section 1804.671–4 is revised to read as follows:

1804.671–4 Preparing Individual Procurement Action Reports (NASA Forms 507, 507A, 507B, 507G, and 507M).

(a) Individual Procurement Action Reports shall be prepared and submitted to Headquarters for each procurement action required to be reported (see 1804.671–1). Specifically, for new contract awards, NASA Forms 507, 507A, and 507B are prepared. For new grants, agreements, intragovernmental agreements, and orders against federal supply schedules, NASA Forms 507G and 507B are prepared. For modifications to any of the above procurements, NASA Forms 507M and, if necessary, 507B are prepared.

(b) Detailed item instructions for preparing the NASA Forms 507 series are as follows:

(1) *Item 1—Contract/grant number* (11 positions, including blanks).

(i) Enter the specific contract, grant, cooperative agreement, Space Act agreement, or purchase order number for which the data are reported. The first five digits represent the prefix field, while the last six digits are used to number each contractual instrument serially. If a serial number does not fill out the entire field, leave those digit positions blank instead of using zeros.

(ii) The method of numbering—

(A) Contracts, purchase orders, and Space Act agreements is set forth in subpart 1804.71; and

(B) Grants and Cooperative agreements is set forth in the NASA Grant and Cooperative Agreement Handbook, NHB 5800.1, paragraph 306.

(2) *Item 2—Document suffix* (1 position). If an alpha suffix is used in the contract or purchase order number, enter the assigned suffix (e.g., ''F'' for facilities contracts). Otherwise, leave this item blank.

(3) *Item 3—Modification prefix* (1 position). If an alpha prefix is used in the modification number of the reported action, enter the assigned prefix. Otherwise, leave this item blank.

(4) *Item 4—Modification number* (4 positions). Enter the serial number assigned to the modification action.

(5) *Item 5—PR number* (12 positions). Enter the number assigned to the Procurement Request document which initiated the reported action.

(6) *Item 6—Closeout PR* (1 position). Enter ''Y'' if the reported action closes the PR reported in item 5. Otherwise, leave this item blank.

(7) *Item 7—Contractor VID* (7 positions). Enter the contractor's unique Vendor Identification Number (VID) which indicates the contractor's name and business address.

(8) *Item 7a—Contractor name* (29 positions, including spaces). Enter the name of the contractor. (For editing purposes, the first five characters of the contractor's name must be identical to those shown in ''NASA Contractor Identification Codes.'') For intragovernmental actions, enter the agency name (e.g., US Army, US Navy, US Commerce) and also see the Item 8

instructions in paragraph (b)(11) of this section.

(9) *Item 7b—Contractor division* (20 positions). Enter the name of the contractor's division if one is named in the contractual instrument. (For editing purposes, the first five characters of the division name must be identical to those shown in ''NASA Contractor Identification Codes.'') For intragovernmental actions, enter the name of the cognizant procuring activity (e.g., Electronic Systems Division).

(10) *Item 7c—Contractor address—city and state.* Enter city and state of contractor's address as stated in the contractual instrument.

(11) *Item 8—Contractor identification code (CIC) number* (7 positions). This coding system is managed by the Headquarters Analysis Division (Code HC). It identifies the procurement in terms of the contractor's name, division (if any), address, and the place of performance. A unique code is assigned for each different combination of these items. For combinations not found, call the Office of Procurement, NASA Headquarters (Code HC), where a code will immediately be assigned.

(12) *Item 9—Contractor Place of Performance (CPOP) VID* (7 positions). Enter the unique Contractor Place of Performance (CPOP) VID which indicates the contractor's place of performance address. This is a seven character alpha-numeric code generated by the Acquisition Management Subsystem (AMS).

(13) *Items 9a—Place of performance* (city—24 positions; state—2 positions). Enter the location (city and state) of the principal plant or place of business where the items will be produced or supplied from stock or where the service will be performed. For construction contracts, enter the site of construction. If more than one location is involved, enter the principal place of performance. For intragovernmental actions where the place of performance is unknown, enter the address of the cognizant Government agency.

(14) *Item 10—Procuring installation number* (2 positions). Enter a numeric code identifying the installation responsible for the procurement. The following is a list of installations and their assigned codes:

Code	Installation
04	NASA Headquarters.
21	Ames Research Center.
22	Lewis Research Center.
23	Langley Research Center.
24	Dryden Flight Research Center.
51	Goddard Space Flight Center.
53	Wallops Flight Facility.
54	NASA Management Office-JPL.
62	George C. Marshall Space Flight Center.
64	John C. Stennis Space Center.
72	Lyndon B. Johnson Space Center.
73	Space Station Program Office.
76	John F. Kennedy Space Center.

(15) *Item 11—POP zip code* (5 positions). Enter the five digit zip code corresponding to the contractor's place of performance address.

(16) *Item 12—Contract award/modification date* (6 positions).

(i) *Contract award.* Enter the year, month, and day (two numerics each) that the contract is signed by the contracting officer.

(ii) *Modification date.* Enter the year, month, and day (two numerics each) that the modification is signed by the contracting officer.

(17) *Item 13—Completion date* (6 positions). Enter the year, month, and day (two numerics each), either specified or estimated, when all work on the contract and any modifications is scheduled for completion. This date may or may not change as modifications to the contract are issued.

(18) *Item 14—Procurement placement code* (2 positions). Enter the alpha procurement placement code (PPC) identifying the type of solicitation process used and the extent of competition obtained on the procurement. (See 1804.671–7 for PPC matrix.)

(19) *Item 15—Kind of action* (2 positions). Enter the numeric code from the following lists that identifies in general terms the kind of procurement and the action taken to initiate it:

Code	Kind of action
	New Contracts/Grants/Orders
01	New letter contract.
03	New basic contract. New procurements, when the first binding document contains all the agreement's terms and conditions.
05	Intragovernmental. Orders issued to other Federal agencies.
06	Grant.
21	Cooperative agreement or Space Act agreement.
23	Order under Mandatory GSA–FSS. See FAR 8.404.
24	Order under optional (non-mandatory) GSA–FSS. See FAR 8.404–2.
25	Order under indefinite-delivery contract (IDC).
26	Order under BOA.
	Modifications to Existing Contracts
07	New-work modification. Modifications that add a new procurement to existing contracts. New procurement, for the purpose of this report, means a modification action that usually requires the preparation of a Justification for Other than Full and Open Competition (see FAR 6.303).
08	Supplemental agreement. Bilateral, definitized modifications except those covered by code 10 below.
09	Change order. Change orders issued pursuant to the changes clause of the contract.
10	Supplemental agreement definitizing change order.
11	Administrative/incremental funding. This code should be used for administrative changes (such as novation agreements) as well as for incremental funding modifications.
12	Termination for default.
13	Termination for convenience.
14	Definitizing letter contract.
15	Exercising priced option.
16	Order under reporting center's indefinite delivery contract (IDC).
17	Order under reporting center's BOA.

(20) *Item 15a—Center kind of action* (2 positions). Enter the numeric code, if applicable, from the following list that further identifies the kind of action reported in item 15:

Code	Center kind of action
14	Small purchase.
50	Basic ordering agreement (BOA).
52	Indefinite delivery type contract.
53	Basic ordering agreement modification.
54	Task order modification.
60	Blanket purchasing agreement (BPA).
61	Call against BPA.
99	Closing modification.

Leave this item blank if none of the above choices are descriptive of the action being reported. The information provided in this item is used in the generation of Procurement Management Data Reports (PMDR).

(21) *Item 16—Contractor type* (2 positions). Enter the appropriate code from the following:

Code	Contractor
	Business
01	Section 8(a)—disadvantaged. Awards placed through the Small Business Administration with a minority business firm owned and controlled by socially and economically disadvantaged individuals, in accordance with Section 8(a) of the Small Business Act.

Code	Contractor
03	Disadvantaged direct. Awards placed directly with a minority business firm owned and controlled by socially and economically disadvantaged individuals.
04	Not disadvantaged. Other large or small businesses that are not considered disadvantaged.
	Nonprofit Organization
05	Educational (Non-Minority). A non-minority educational institution that is *not* State, Federal, or local-government-owned.
06	Hospital. A hospital that is *not* State, Federal, or local-government-owned.
08	Other nonprofit (Non-Minority). A non-minority nonprofit institution or organization that is a corporation, foundation, trust, or institution not organized for profit, and no part of its net earnings is applied to the profit of any private shareholder or individual.
15	Educational (HBCU). A Historically Black College or University (HBCU) that is *not* State, Federal, or local-government-owned.
18	Other nonprofit (Minority). A minority nonprofit institution or organization that is a corporation, foundation, trust, or institution not organized for profit, and no part of its net earnings is applied to the profit of any private shareholder or individual.
25	Educational (Other Minority). A minority educational institution, other than an HBCU, that is *not* State, Federal, or local-government-owned.
	State/Local Government
09	Educational (Non-Minority). A State, Federal, or local-government-owned non-minority educational institution. (Privately owned non-minoirty educational institutions shall be coded 05.)
10	Hospital. A State, Federal, or local-government-owned hospital. (Privately owned hospitals shall be coded 06.)
12	Other State/local government. Includes State, Federal, or local-government-owned research organizations.
19	Educational (HBCU). A State, Federal, or local-government-owned Historically Black College or University (HBCU). Privately owned HBCU's shall be coded 15.)
29	Educational (Other Minority). A State, Federal, or local-government-owned non-minority educational institution, other than an HBCU. (Privately owned minority educational institutions, other than HBCU's, shall be coded 25.)

(22) *Item 16a—Woman-Owned business* (1 position). Enter ''Y'' (yes) or ''N'' (no) to indicate whether the business concern is a woman-owned business. A woman-owned business is one that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.

(23) *Item 17—Award Outside U.S.* Enter ''L'' for an award to a source outside the U.S. Enter ''M'' for an award to a source inside the U.S., if the principal place of performance will be outside the U.S. When this item is coded ''L'' or ''M,'' the PPC code entered in item 14 of the NASA Form 507 must be from the ''work outside U.S.'' category of the PPC matrix.

(24) *Item 18—Extent of competition* (1 position). Enter the appropriate code from the following list (except for non-new-work (within-scope) modifications):

Code	Extent of competition.
2	Sealed Bid. Award results from acceptance of a bid in response to a formal invitation for bids or from sealed bidding following an evaluation of technical proposals (two-step sealed bidding). (See FAR part 14.)
3	Competed action—SEB. Competitive offers are solicited from more than one responsible offeror capable of satisfying the Government's requirements wholly or partially; award is based on price, design, or technical competition; and Source Evaluation Board (SEB) procedures are used to evaluate the proposals (see FAR 15.608). This code shall also be used if Architect-Engineer Selection Board procedures are used (see FAR 36.603–2).
4	Other competed action. Competitive offers are solicited from more than one responsible offeror capable of satisfying the Government's requirements wholly or partially; award is based on price, design, or technical competition; and Source Evaluation Board procedures are not used to evaluate the proposals.
5	Noncompetitive follow-on to competed action. The procurement is for the continued development or production of a major system or highly specialized equipment, including major components thereof, that is considered available only from the original source, and it is likely that award to any other source would result in (1) substantial duplication of cost to the Government that is not expected to be recovered through competition, or (2) unacceptable delays in fulfilling NASA's requirements (see FAR 6.302–1(b)(2)).
6	Other not competed. Only one offer is solicited and only one offer is received capable of satisfying the Government's requirements wholly or partially; the work involved is not a follow-on procurement reportable under code 5 above. Include awards resulting from unsolicited proposals in this category.

(25) *Item 19—Type of service or product* (4 positions). Enter the code indicating the principal type of effort or end item obtained under the contract. If more than one classification applies to the procurement, enter the one accounting for the largest dollar volume of procurement. Codes have been established to identify research and development (R&D) procurements, service contracts, and supply and equipment contracts. These codes may be found in the FPDS Product and Service Codes manual located in the procurement administrative office at each NASA installation.

(26) *Item 20—Physically complete* (1 position). Enter ''Y'' (yes) if the contract is physically complete, i.e., after all articles and services called for under the contract, including such related items as reports, spare parts, and exhibits, have been delivered to and accepted by the Government (see FAR 4.804–4). Also enter the date that the contract is physically completed. Otherwise, this field should be left blank.

(27) *20a—Contract/Grant Proposal Number* (18 positions). Enter the contract/grant proposal number in this field. This field is optional and not reported to Headquarters.

(28) *Item 21—Labor surplus area award* (1 position). ''Y'' or ''N'' to indicate whether the award is to a concern in a labor surplus area (see FAR Subpart 20.1).

(29) *Item 22—FSS/Indefinite-delivery/BOA contract no.* (15 positions). Enter the Federal Supply Schedule (FSS), indefinite-delivery, or basic ordering agreement (BOA) contract number under which a delivery order has been

placed if Item 15 (Kind of Action) is coded 23, 24, 25, or 26.

(30) *Item 23—Description of contract/modification (narrative).* Enter a brief description of the end item or services being procured. For modifications, enter a brief description of the purpose.

(31) *Item 24—CICA applicability* (1 position).

(i) Pre-CICA: Code 1 Enter if the contract action is a new contract (or within-scope modification thereto) resulting from a solicitation issued before April 1, 1985, irrespective of the award date.

(ii) Post-CICA: Code 2 Enter if the contract action is a new contract resulting from a solicitation issued on or after April 1, 1985. All modifications to such contracts are to be reported by this code.

(32) *Item 24a—Special handling* (1 position). Center unique data element.

(33) *Item 25—Proposed procurement synopsized* (1 position). Entry ''Y'' if the procurement was synopsized prior to award in the Department of Commerce's Commerce Business Daily. Enter ''N'' if the procurement was not synopsized, except enter ''U'' if the procurement was not synopsized because of urgency.

(34) *Item 26—Contract type* (2 positions).

(i) Enter the code that identifies the type of contract from the following list:

Code	Contract type
01	Fixed-Price, Firm (FAR 16.202 and 16.207). (Include Firm Fixed-Price, level-of-effort term contracts in this category.)
02	Fixed-Price, Redetermination (FAR 16.205).
03	Fixed-Price with Economic Price Adjustment (FAR 16.203).
04	Fixed-Price Incentive (FAR 16.204).
05	Cost (No Fee) (FAR 16.302).
06	Cost-Sharing (FAR 16.303). (The estimated cost reported shall include only the Government's share.)
07	Cost-Plus-Fixed-Fee (FAR 16.306).
08	Cost-Plus-Incentive-Fee (FAR 16.404–1).
09	Time-and-Materials (FAR 16.601).
10	Labor-Hour (FAR 16.602).
12	Cost-Plus-Award-Fee (FAR 16.404–2).

(ii) Combination contract types shall be reported as follows:

(A) Where the contract has one type of incentive arrangement applying to cost performance and another to technical and/or schedule performance, report the contract type assigned to the cost-incentive feature; e.g., a contract providing a cost-plus-incentive-fee arrangement on cost and an award fee arrangement on technical and/or schedule performance will be reported as ''Code 08—Cost-Plus-Incentive-Fee.''

(B) Where one or more items of work are priced exclusively under one of the arrangements coded above, with one or more additional items priced exclusively under another such arrangement, report the contract type in accordance with the code assigned to the arrangement under which the predominate dollar amount will be spent.

(35) *Item 27—No. of offerors solicited* (3 positions). Enter the number of firms to which solicitations were provided.

(36) *Item 28—Number of offers received* (3 positions). Enter the actual number of offers received in response to the solicitation.

(37) *Item 29—Solicitation procedures* (1 position). This item pertains to the requirements of FAR subparts 6.1 (Full and Open Competition), 6.2 (Full and Open Competition After Exclusion of Sources), and 6.3 (Other Than Full and Open Competition), with the exception of the statutory authorities for other than full and open competition (subpart 6.3), which are reported in Item 30. Codes ''A'' through ''L'' designate the competition alternatives described in FAR part 6. Delivery-order contract actions under indefinite-delivery contracts shall be reported the same as the initial contract when the following criterion, in FAR 6.001(e), is met: They are orders placed under indefinite-delivery contracts that were entered into pursuant to FAR part 6, and either the contract was awarded under subpart 6.1 or 6.2 and all responsible sources were realistically permitted to compete for the requirements contained in the order, or the contract was awarded under subpart 6.3 and the required justification and approval adequately covers the requirements contained in the order.

(i) Code A—Full and open competition sealed bid is entered when the sealed bidding (see FAR 6.401(a)) method of contracting was used.

(ii) Code B—Full and open competition—competitive proposal is entered when the FAR part 15, Contracting by Negotiation, procedures were used for a competitive solicitation.

(iii) Code C—Full and open competition—combination is entered when any combination of competitive procedures (e.g., two-step sealed bidding) was used (see FAR 6.102(c)).

(iv) Code D—Architect-engineer is entered if the action resulted from selection of sources for architect-engineer (A&E) contracts in accordance with Public Law 92–582 and procedures in FAR subpart 36.6 (see FAR 6.102(d)(1)). The selection of a potential A&E contractor is made by an A&E Evaluation Board conducted in accordance with 41 U.S.C. 541 et seq. This selection process is considered a competitive procedure and shall be reported as a competitive award. When award is an A&E contract and was a result of a small business set-aside or labor surplus area set-aside, use code K in lieu of this code.

(v) Code E—NASA Research Announcement/Announcement of Opportunity is entered if the action resulted from competitive selection of basic research proposals as a result of

(A) A broad agency announcement (NASA Research Announcement or Announcement of Opportunity) that is general in nature identifying areas of research interest, including criteria for selecting proposals, and soliciting the participation of all offerors capable of satisfying the Government's needs and

(B) A peer or scientific review (see FAR 6.102(d)(2)).

(vi) Code F—Multiple-award schedule is entered if the action is an order issued against a multiple-award schedule using the procedures in FAR 8.405–1 (see FAR 6.102(d)(3)). This code shall be used for multiple-award schedule contracts (mandatory or optional). This code may be used for ADP procurements, unless the solicitation utilized make-or-model specifications. Use of the multiple-award schedule program is considered to be a competitive procedure because competitive procedures were used by GSA to make the basic multiple-award schedule contract awards under 41 U.S.C. 259(b)(3)(A). For reporting purposes, an order issued against a multiple-award schedule shall be reported as a competitive award.

(vii) Code G—Alternate source—reduced cost is entered if the action was taken pursuant to FAR 6.202(a)(1), which states that agencies may exclude a particular source from a contract action in order to establish or maintain an alternative source or sources for the supplies or services being acquired if the agency head determines that to do so would increase or maintain competition and likely result in reduced overall costs for the acquisition, or for any anticipated acquisition of such supplies or services.

(viii) Code H—Alternate source—mobilization is entered if the action was taken pursuant to FAR 6.202(a)(2), which states that agencies may exclude a particular source from a contract action in order to establish or maintain an alternative source or sources for the supplies or services being acquired if the agency head determines that to do so would be in the interest of national defense in having a facility (or a producer, manufacturer, or other supplier) available for furnishing the supplies or services in case of a national emergency or industrial mobilization.

(ix) Code J—Alternate source—engineering/R&D capability is entered if

the action was taken pursuant to FAR 6.202(a)(3), which states that agencies may exclude a particular source from a contract action in order to establish or maintain an alternative source or sources for the supplies or services being acquired if the agency head determines that to do so would be in the interest of national defense in establishing or maintaining an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center.

(x) Code K—Set-asides is entered if the action resulted from use of procedures for set-asides pursuant to FAR 6.203. This includes small business set-asides, labor surplus area set-asides, or combinations thereof, but not architect-engineer contracts (use Code D). Code K also includes contract actions under the Small Business Innovation Research (SBIR) Program established under Public Law 97–219.

(xi) Code L—Other than full and open competition is entered if the action resulted from use of other than full and open competition pursuant to 10 U.S.C. 2304(c). The conditions or exceptions permitting contracting without providing for full and open competition are prescribed in FAR 6.302. Enter this code for noncompetitive awards made under the authority of Section 8(a) of the Small Business Act (see FAR subpart 19.8). This code shall also be used for all ADP procurements where the solicitation utilized make-and-model specifications.

(38) *Item 30—Authority for other than full and open competition.* When Item 29 is coded ''L,'' this item must be completed. Enter the applicable code from the categories listed in this paragraph (b)(38). This item identifies the solicitation process and not the extent of competition obtained.

(i) Code A—Unique source is entered when the contract action is under 10 U.S.C. 2304(c)(1) and the agency's minimum needs can be satisfied only by unique supplies or services available from only one source or only one supplier with unique capabilities (see FAR 6.302–1(b)(1)).

(ii) Code B—Fellow-on contract is entered when the contract action is under 10 U.S.C. 2304(c)(1) and it is likely that the award of follow-on contracts must be to the original source because award to any other source would result in—

(A) Substantial duplication of cost to the Government that is not expected to be recovered through competition or

(B) Unacceptable delays in fulfilling the agency's requirements (see FAR 6.302–1(a)(2)(ii)).

(iii) Code C—Unsolicited research proposal is entered when the contract action is under 10 U.S.C. 2304(c)(1) as the result of acceptance of an unsolicited research proposal that demonstrates a unique and innovative concept, the substance of which—

(A) Is not otherwise available to the Government and

(B) Does not resemble the substance of a pending competitive acquisition (see FAR 6.302–1(a)(2)(i)).

(iv) Code D—Patent/data rights is entered when the contract action is under 10 U.S.C. 2304(c)(1) because the existence of limited rights in data, patent rights, copyrights, or secret processes; the control of basic raw material; or similar circumstances make the supplies and services available from only one source (see FAR 6.302–1(b)(2)).

(v) Code E—Utilities is entered when—

(A) The contract action is under 10 U.S.C. 2304(c)(1) when acquiring electric power or energy, gas (natural or manufactured), water, or other utility services and circumstances dictate that only one supplier can furnish the service or

(B) The contemplated contract is for construction of a part of a utility system and the utility company itself is the only source available to work on the system (see FAR 6.302–1(b)(3)).

(vi) Code F—Standardization is entered when the contract action is under 10 U.S.C. 2304(c)(1) because the agency head has determined under the agency's standardization program that only specified makes and models of technical equipment and parts will satisfy the agency's needs for additional units or replacement items and only one source is available (see FAR 6.302–1(b)(4)).

(vii) Code G—Only one source—other is entered when the contract action is under 10 U.S.C. 2304(c)(1) to a single source and codes ''A'' through ''F'' of this paragraph (b)(38) do not apply (see FAR 6.302–1(b)).

(viii) Code H—Urgency is entered when the contract action is under 10 U.S.C. 2304(c)(2) because—

(A) An unusual and compelling urgency precludes full and open competition and

(B) Delay in award of a contract would result in serious injury, financial or other, to the Government (see FAR 6.302–2(b)).

(ix) Code J—Mobilization is entered when the contract action is under 10 U.S.C. 2304(c)(3) to a particular source or sources in order to maintain a facility, producer, manufacturer, or other supplier available for furnishing supplies or services in case of a national emergency or to achieve industrial mobilization (see FAR 6.302–3(b)(1)).

(x) Code K—Essential R&D capabilities is entered when the contract action is under 10 U.S.C. 2304(c)(3) to a particular source or sources in order to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center (see FAR 6.302–3(b)(2)).

(xi) Code L—International agreement is entered when the contract action is under 10 U.S.C. 2304(c)(4) because full and open competition is precluded by—

(A) The terms of an international agreement or treaty between the United States and a foreign government or international organization or

(B) The written directions of a foreign government reimbursing the agency for the cost of the acquisition of the supplies or services (see FAR 6.302–4).

(xii) Code M—Authorized by statute is entered when the contract action is under 10 U.S.C. 2304(c)(5) because a statute expressly authorizes or requires that the acquisition be made through another agency or from a specified source (see FAR 6.302–5(a)(2)(i)). This code should be used for noncompetitive 8(a) awards.

(xiii) Code N—Authorized resale is entered when the contract action is under 10 U.S.C. 2304(c)(5) for a brand-name commercial item for resale through commissaries or other similar facilities (see FAR 6.302–5(a)(2)(ii)).

(xiv) Code P—National security is entered when the contract action is under 10 U.S.C. 2304(c)(6) because disclosure of the Government's needs would compromise the national security (see FAR 6.302–6).

(xv) Code Q—Public interest is entered when the contract action is under 10 U.S.C. 2304(c)(7) because the agency head has determined that full and open competition is not in the public interest in the particular acquisition concerned (see FAR 6.302–7).

(39) *Item 31—Labor statutes* (1 position). Enter the appropriate code, in accordance with the provisions of the contract, from the following list:

Code	Statutory requirements
N	Not subject to statutory requirements listed below.
1	Subject to Walsh-Healey Act, manufacturer (FAR 22.606–1).
2	Subject to Walsh-Healey Act, regular dealer (FAR 22.606–2).

Code	Statutory requirements
3	Subject to Service Contract Act (FAR subpart 22.10).
4	Subject to Davis-Bacon Act (FAR 22.403–1).

(40) *Item 32—Standard Industrial Classification (SIC) Code* (4 positions). Enter the code identifying the industry category within which the principal (determined by the predominance of dollars awarded) product produced or distributed or services rendered would best fit. Industry categories are published in the Standard Industrial Classification Manual maintained and issued by the Office of Management and Budget (OMB). A listing of the SIC codes, without the detailed lists of products and services falling within each category, can be found at FAR 19.102(g).

(41) *Item 33—Contract administration delegated*. Enter ''Y'' (yes) or ''N'' (no) in the first blank to indicate whether any contract administration functions have been delegated to another Government agency (see FAR subpart 42.2). If an ''N'' was entered, leave the rest of this field blank. If a ''Y'' was entered, continue to the second blank and enter a ''Y'' or ''N'' to indicate whether there was a blanket delegation. A blanket delegation is defined as a delegation of all contract administration functions listed in FAR 42.302(a), with the exception of those non-assignable functions specified in 1842.202(c), plus post award audit. If not a blanket delegation, enter a ''Y'' for each individual function delegated among the ten items listed. It is not necessary to enter an ''N'' for non-delegated functions.

(42) *Item 34—Preference program*. Report the code that represents the preference program used in making the award. Report Code H if no preference program applies or the preference program is not otherwise listed.

(i) Code A—Directed to sheltered workshops. Report this code for an award to a workshop for the blind or a workshop for the other severely handicapped pursuant to FAR subpart 8.7.

(ii) Code B—8(a) Program. Report this code for actions with the Small Business Administration pursuant to FAR subpart 19.8.

(iii) Code C—Combined labor surplus/small business set-aside. Report this code for a combined labor surplus area and small business set-aside award made to a small business concern pursuant to FAR subpart 19.5.

(iv) Code D—Small business set-aside. Report this code for a small business set-aside (including Small Business Innovation Research (SBIR)) award made pursuant to FAR subpart 19.5.

(v) Code E—Labor surplus area set-aside. Report this code for a labor surplus area set-aside award made pursuant to FAR subpart 20.2.

(vi) Code F—Tie-bid preference. Report this code for all tie-bid preference awards (see FAR 19.202–3) made pursuant to FAR subpart 19.5.

(vii) Code G—Designated entities set-aside. Report this code for awards set-aside for disadvantaged business, women-owned business, HBCU's, and other minority institutions. (This covers the 26 procurements authorized by the D&F signed by the Administrator on December 1, 1992.)

(viii) Code H—No preference program. Report this code if the award is not made pursuant to a preference program, or if the preference program is not listed in this paragraph (b)(42).

(43) *Item 35—Advisory/Assistance services contract* (1 position). Enter ''Y'' (yes) or ''N'' (no) to indicate whether the contract is for advisory and assistance services.

(44) *Item 36—Support services type contract* (1 position). Enter ''Y'' (yes) or ''N'' (no) to indicate whether the contract is for support services. This includes on- or near-site performance where the services are a major element of the contract. It excludes:

(i) Construction, alteration, and repair;

(ii) Small purchases and incidental services;

(iii) Prime product development contracts;

(iv) Operations support contracts, i.e., effort at major facilities associated with carrying out mission operations; tracking station operations; and support funded by STS operations; and

(v) Tenants.

(45) *Item 37—Cost Accounting Standards clause* (1 position). Enter ''Y'' (yes) or ''N'' (no) to indicate whether the contract contains the Cost Accounting Standards clause (see FAR 30.201–4).

(46) *Item 38—New technology or patent rights clause* (1 position). Enter ''Y'' (yes) or ''N'' (no) to indicate whether a new technology or patent rights clause is included in the contract. (See 1827.373). A ''Y'' entry for contracts with small businesses, nonprofit organizations, and educational institutions will indicate a patent rights clause. A ''Y'' entry for contracts with large businesses will indicate a new technology clause.

(47) *Item 39—Subcontracting program plan* (1 position). Enter ''Y'' (yes) or ''N'' (no) to indicate whether the contract contains a subcontract plan requiring the contractor to furnish the information prescribed on Standard Forms 294 and 295 (see 1804.674 and FAR 19.702). Enter ''W'' (waiver) when there are no subcontracting opportunities, for contracts performed entirely outside the United States, and for GSA Federal Supply Schedule contracts containing plans. Use Code ''Y'' for corporate plans with individual contract goals.

(48) *Item 40—SBIR award* (1 position). Enter ''N'' (no) if the contract action is not in support of the Small Business Innovation Research (SBIR) Program (Pub. L. 97–219). Enter Code ''1'' if the contract action is related to a Phase I contract in support of the program. Enter Code ''2'' if the contract action is related to a Phase II contract in support of the program. Enter Code ''3'' for Phase III SBIR contracts. Phase II SBIRs and SBIRs funded by agencies other than NASA should use PPC Code GF.

(49) *Item 41–STTR award* (1 position). Enter Code ''N'' (no) if the contract action is not in support of the Small Business Technology Transfer (STTR) Program (Pub. L. 102–564).

Enter Code ''1'' if the contract action is related to a Phase I contract in support of the program. Enter Code ''2'' if the contract action is related to a Phase II contract in support of the program.

(50) *Item 42—Contract for foreign government or international organization*. Enter ''Y'' (yes) if a foreign government or international organization is bearing any part of the cost of the action. Otherwise, enter ''N'' (no).

(51) *Item 43—Management reporting requirements (MRR): correlated cost and performance data reporting* (1 position). Enter one of the following codes (see NHB 9501.2):

Code	Reporting required
N	None required.
2	NASA Form 533M only.
3	NASA Forms 533M and 533Q.
4	NASA Forms 533M and 533P.
5	NASA Forms 533P and 533Q.
6	NASA Forms 533M, 533P, and 533Q.

(52) *Item 44—Management reporting requirements (MRR): property and space hardware reporting* (1 position). Enter one of the following codes (see FAR 45.505–11):

Code	Reporting required
N	None required.
2	NASA Form 1018, without space hardware.
3	NASA Form 1018, with space hardware.

(53) *Item 45—Trade data* (3 blocks).

(i) First block—number of bidders offering foreign item (1 position). Enter one numeric code (0–9) to indicate the number of firms that offered foreign end products. An entry is required regardless of whether the Buy American Act is invoked or not. If none, enter ''0''. If 9 or more, enter ''9''.

(ii) Second block—Percent difference (2 positions). If the evaluation factor under the Buy American Act is used and results in award to a firm offering a domestic product, enter the percentage difference between the award price and that of the low firm offering a foreign end product, computer before application of the Buy American Act differential, i.e., the difference divided by the price of the low firm offering a foreign end product. Enter the percentage as a whole number. If the evaluation factor under the Buy American Act is not used, enter ''00''.

(iii) Third block—Country of manufacturer (2 positions). If the product is manufactured, mined, or grown in the United States (the 50 states and the District of Columbia) or the service is performed by a U.S. contractor, enter ''US''. If the product is manufactured, mined, or grown in a foreign country, enter the code from FIPS PUB 10–3 of that country/area. In the case of a service, if the service is performed by a foreign contractor, enter the code from FIPS PUB 10–3 of that country/area. This publication may be obtained from the Headquarters Office of Procurement, Analysis Division (Code HC).

(54) *Item 46—Demonstration test program* (1 position). Enter ''Y'' or ''N'' to indicate whether the award is a new contract awarded to a U.S. business concern as a result of a solicitation issued on or after January 1, 1989, under the Small Business Competitiveness Demonstration Program (see FAR subpart 19.10 and 1819.10). This item must be completed for awards to large businesses as well as for awards to small businesses.

(55) *Item 47—Emerging small business* (1 position). Complete this item only if Item 46 is coded ''Y.'' Enter ''Y'' or ''N'' to indicate whether the contractor represents that it is an emerging small business concern (see FAR 19.1002 for definition of emerging small business).

(56) *Item 48—Emerging small business reserve award* (1 position). Complete this item only if Item 46 is coded ''Y.'' Enter ''Y'' or ''N'' to indicate whether the contract award was reserved for emerging small business concerns.

(57) *Item 49—Size of small business* (1 position). Complete this item only if Item 46 is coded ''Y'' and the award is to a small business. Enter the code that corresponds to the range of the number of employees or the range of the average annual gross revenue for the small business contractor receiving the award as represented by the contractor in response to the solicitation.

(58) *Item 50—Value Engineering Clause.* Enter ''Y'' (yes) or ''N'' (no) to indicate whether the contract contains any one of the value engineering clauses at FAR 52.248–1, 52.248–2, or 52.248–3.

(59) *Item 51—Effective date.* Enter the year, month, and day (two numerics each) of the contract's effective date.

(60) *Item 52—Security code* (1 position). Enter ''Y'' or ''N'' to indicate whether Defense Industrial Security clearances are required during contract performance.

(61) *Item 53—Equipment code* (1 position). Enter ''Y'' or ''N'' to indicate whether the contract will involve government furnished or contractor acquired property.

(62) *Item 54—Administrator code* (3 positions). Enter the code which identifies the individual at the contracting installation responsible for administration of the contract.

(63) *Item 55—Contracting officer code* (3 positions). Enter the code which identifies the contracting officer assigned to the contract.

(64) *Item 56—Negotiator code* (3 positions). Enter the code which identifies the individual responsible for negotiating the contract.

(65) *Item 57—COTR name* (15 positions). Enter the name of the Contracting Officer's Technical Representative (COTR) for the contract.

(66) *Item 58—Organization code* (5 positions). Enter the organization code for the responsible technical organization for which the contract has been awarded.

(67) *Item 59—Contract fund code* (1 position). Enter the appropriate code to indicate whether the contract is fully funded, incrementally funded, or unfunded.

(68) *Item 60—Reason not small business* (2 positions). Enter the appropriate two digit code to identify the reason the contract was not awarded to a small business concern.

(69) *Item 61—FIP Resources Decision Document* (1 position). Enter FRDD number, if applicable.

(70) *Item 62—KMA number* (7 positions). Enter the Delegation of Procurement Authority case number assigned by GSA for FIP Resources (KMA–xx–yyyy(–y)), if applicable.

(71) *Item 63—Center unique.* This field may be used at the discretion of individual centers to collect data not elsewhere reported on the form (e.g., taxpayer identification numbers). Otherwise leave this time blank.

(72) *Item 64—Cancellation date* (6 positions). If it is necessary to cancel a previously executed modification, enter the year, month, and day (two numerics each) of such cancellation.

(73) *Item 65—Total contract value including options.* Enter the definitized contract value (including maximum potential fee or profit) plus the value of any options (including maximum potential fee or profit) available in the contract. Round entries to the nearest whole dollar.

(74) *Item 66—Estimated cost or fixed price* (11 positions). Enter the estimated cost or fixed price for all new awards. For modifications, enter only the increase or decrease effected by the respective modification. For cost-reimbursement contracts, enter the estimated cost, exclusive of fee. For fixed-price contracts, enter the total fixed price, including the negotiated profit. For time-and-materials and labor-hour contracts, enter the total estimated contract price, including profit. Round all entries to the nearest whole dollar. Do not report amounts for priced options that have not been exercised in this field.

(75) *Item 67—Fee* (11 positions). This item pertains to cost-reimbursement contracts only. For new awards, enter the definitized negotiated fee, broken down into the types of fee indicated on the form. For modifications, enter only the increase or decrease effected by the respective modification. For incentive contracts, enter the target fee. For award-fee contracts, enter the base fee plus the maximum, available award fee. Also enter the total of the different types of fees reported. Round entries to the nearest whole dollar.

(76) *Item 68—Action obligation.* Enter the dollar amount obligated (increase or decrease) of the reported action. Report obligations for cost and fee separately and enter the total obligations reported. Round entries to the nearest whole dollar.

(77) *Item 69—Funded through date* (6 positions). For incrementally funded contracts, enter the date through which the contract is funded.

(78) *Item 70—Delegation of Procurement Authority ceiling amount* (11 positions). Enter DPA ceiling amount, if applicable.

(79) *Item 71—FIRMR Applicability* (1 position). Indicate whether the FIRMR applies to the procurement.

(80) *Item 72—Delegation of Procurement Authority expiration date* (6 positions—YYMMDD). Enter the date that the DPA expires, if applicable.

16. Section 1804.671–6 is revised to read as follows:

1804.671–6 Special procurement placement codes (PPC's) for certain procurements.

(a) The accounting copies for all procurements of $25,000 or less from ''Disadvantaged Business Firms-Direct'' shall be coded with the second letter ''M'' in the PPC; e.g., BM or KM.

(b) The accounting copies for all procurement of $25,000 or less from ''Women-Owned Business Firms'' shall be coded with the second letter ''W'' in the PPC; e.g., BW or KW.

(c) All procurement awards over $25,000 and the accounting copies for procurement actions of $25,000 or less (no NASA Form 507 is required) placed through the Small Business Administration with a disadvantaged business firm under section 8(a) of the Small Business Act shall be coded with PPC ''PS'' for noncompetitive and ''PF'' for competitive. The accounting copies for all procurements (except FSS orders) of $2,500 or less shall be coded with PPC's CC, EC, HC, IC, LC, MC, OC, PC, VC, or ZC.

17. Sections 1804.672 through 1804.675 are removed.

18. In section 1804.676, ''(Code FEH)'' is revised to read ''(Code FET)''.

PART 1812—CONTRACT DELIVERY OR PERFORMANCE

1812.103 [Amended]

19. In section 1812.103, the citations ''1814.407 and 1815.1002'' are revised to read ''1814.408 and 1815.1003''.

1812.302 [Amended]

20. In section 1812.302, paragraph (b) is revised to read as follows:

1812.302 General.

(a) * * *

(b) Additional regulatory guidance is available in ''DPAS, Defense Priorities and Allocations System,'' Department of Commerce, International Trade Administration, Office of Industrial Resource Administration, Washington, DC 20250, October 1984, 66 pages (copies available from Department of Commerce), and the DOD Priorities and Allocations Manual, DOD 4400.1–M, May 1995. The DOC booklet contains the pertinent parts of 15 CFR part 700 and is the recommended guidance on the DPAS to contractors and suppliers receiving rated orders.

PART 1813—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

Subpart 1813.4—Imprest Fund

1813.403, 1813.403–70, 1813.404, 1814.405 [Redesignated]

21. Sections 1813.403, 1813.403–70, 1813.404, and 1813.405 are redesignated as sections 1813.402, 1813.402–70, 1813.403, and 1813.404.

22. In paragraph (b) of the newly designated section 1813.402–70, the citation ''FAR 13.403'' is revised to read ''FAR 13.402''.

23. In paragraph ((b)(5) of the newly designated section 1813.403, the citation ''1813.405(b)'' is revised to read ''1813.404(b)''.

24. In paragraph (e)(3) of the newly designated section 1814.404, the citation ''1813.404'' is revised to read ''1813.403''.

1813.505–2 [Redesignated]

25. Section 1813.505–2 is redesignated as section 1813.505–1, and the section heading to the newly designated section 1813.505–1, ''Agency order forms in lieu of Optional Forms 347 and 348'' is revised to read ''Optional Form (OF) 347, Order for Supplies or Services, and Optional Form (OF) 348, Order for Supplies or Services-Continuation''.

1813.7003 [Amended]

26. In paragraph (a) of section 1813.7003, the citation ''FAR 13.404'' is revised to read ''FAR 13.403''.

PART 1814—SEALED BIDDING

Subpart 1814.4—Opening of Bids and Award of Contract

1814.406, 1814.406–3, 1814.406–4, 1814.407, 1814.407–1 [Redesignated]

27. Sections 1814.406, 1814.406–3 1814.406–4, 1814.407, and 1814.407–1 are redesignated as sections 1814.407, 1814.407–3, 1814.407–4, 1814.408, and 1814.408–1.

28. In paragraph (a) of the newly designated section 1814.407–3, the citation ''FAR 14.406–3(a) and (b)'' is revised to read ''FAR 14.407–3(a) and (b)'', the citation ''FAR 14.406–3(d)'' is revised to read ''FAR 14.407–3(d)'', and the citation ''FAR 14.406–3(c)'' is revised to read ''FAR 14.407–3(c)''.

29. In paragraph (b) of the newly designated section 1814.407–3, the citation ''FAR 14.406–3(a)'' is revised to read ''FAR 14.407–3(a)''.

30. In paragraph (c) of the newly designated section 1814.407–3, the citation ''FAR 14.406–3'' is revised to read ''FAR 14.407–3''.

31. In the newly designated section 1814.407–4, the citation ''FAR 14.406–4(b) and (c)'' is revised to read ''FAR 14.407–4(b) and (c)'' and the citation ''FAR 14.406–4 (d)'' is revised to read ''FAR 14.407–4(d)''.

PART 1815—CONTRACTING BY NEGOTIATION

1815.412 [Amended]

32. In section 1815.412, the section heading ''Late proposals and modifications'' is revised to read ''Late proposals, modifications, and withdrawals of proposals''.

1815.413 [Amended]

33. In paragraph (b) to section 1815.413, the citations ''FAR 15.1003 and 1815.1003'' are revised to read ''FAR 15.1004 and 1815.1004''.

Subpart 1815.10—Preaward, Award, and Postaward Notifications, Protests, and Mistakes

1815.1002, 1815.1003, 1815.1003–1, 1815.1003–2, 1815.1003–3, 1815.1003–4 [Redesignated]

34. Sections 1815.1002, 1815.1003, 1815.1003–1, 1815.1003–2, 1815.1003–3 and 1815.1003–4 are redesignated as sections 1815.1003, 1815.1004, 1815.1004–1, 1815.1004–2, 1815.1004–3 and 1815.1004–4.

35. In newly designated section 1815.1003, the citation ''FAR 15.1002'' is revised to read ''FAR 15.1003''.

36. In paragraph (a) to the newly designated section 1815.1004–2, the citation ''FAR 15.1003'' is revised to read ''FAR 15.1004''.

1819.502–3 [Amended]

37. In section 1819.502–3, paragraph (a)(1) is revised to read as follows:

1819.502–3 Partial set-asides.

(a)(1) Contracting officers shall require offers obtained from firms eligible for the set-aside portion of the requirement under the clause at FAR 52.219–7, Notice of Partial Small Business Set-Aside, to be in writing and to include agreement—

(i) On the price for the available set-aside quantity,

(ii) On the delivery schedule,

(iii) That all other terms and conditions of the solicitation apply to the set-aside award, and

(iv) To include the clause at FAR 52.215–2, Audit and Records—Negotiation.

* * * * *

PART 1825—FOREIGN ACQUISITION

Subpart 1825.9—Additional Foreign Acquisition Clauses

1825.901 [Amended]

38. Section 1825.901 is revised to read as follows:

1825.901 Omission of Audit Clause.

(a) The contracting officer's request to use the clause at FAR 52.215–2, with its Alternate III, shall consist of the proposed determination and findings (together with any relevant support information) prepared for the Administrator's signature. The procurement officer shall forward the package to the Associate Administrator for Procurement (Code HC).

(b) When the clause at FAR 52.215–2 is used with its Alternate III, the contracting officer shall prepare a written report in triplicate to be furnished to the Congress. The head of the installation concerned shall sign the report and forward it to the Associate Administrator for Procurement (Code HC), who shall submit it to the Administrator for the Administrator's signature and forwarding to Congress.

PART 1834—MAJOR SYSTEM ACQUISITION

1834.005–1 [Amended]

39. In section 1834.005–1, paragraph (k) is removed, and the existing paragraph (l) is redesignated as paragraph (k).

PART 1835—RESEARCH AND DEVELOPMENT CONTRACTING

1835.016–70 [Amended]

40. In paragraph (e)(9) of section 1835.016–70, the citation ''1815.1003'' is revised to read ''1815.1004''.

PART 1836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

1836.304 [Amended]

41. In section 1836.304, the citation ''1814.407–1(f)'' is revised to read ''1814.408–1(f)''.

1836.602–5 [Amended]

42. In section 1836.602–5, the section heading ''Short selection processes for contracts not to exceed the small purchase limitation'' is revised to read ''Short selection process for contracts not to exceed the simplified acquisition threshold''.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.204–70 [Removed]

43. Section 1852.204–70 is removed.

PART 1870—NASA SUPPLEMENTARY REGULATIONS

Subpart 1870.1—NASA Acquisition of Investigations System

44. In the introductory text to section 1870.102, App. I, Chapter 5, paragraph 504, the citation ''1815.1003'' is revised to read ''1815.1004''.

Subpart 1870.3—NASA Source Evaluation

45. In section 1870.303, App. I, Chapter 4, paragraph 407, paragraph 8. is revised to read as follows:

1870.303 Source Evaluation Board Procedures.

* * * * *

Chapter 4 * * *

407 Initial Evaluation * * *

8. Notification of Unsuccessful Offerors. The contracting office shall notify each unsuccessful offeror in accordance with FAR 15.1002.

* * * * *

46. In section 1870.303, App. I, Chapter 6, paragraph 602, paragraph 1.a., the citation ''FAR 15.1001'' is revised to read ''FAR 15.1002'', and in paragraph 1.b. the citations ''FAR 15.1001(c) and 15.1002'' are revised to read ''FAR 15.1002(c) and 15.1003''.

[FR Doc. 95–22572 Filed 9–13–95; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217, 222, and 227

[Docket No. 950427117–5220–03; I.D. 042095E]

RIN 0648–AH97

Sea Turtle Conservation; Restrictions Applicable to Shrimp Trawl Activities; Leatherback Conservation Zone

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule establishes all inshore and offshore waters from Cape Canaveral, FL (28°24.6′ N. lat.) to the North Carolina-Virginia border (36°30.5′ N. lat.) as the leatherback conservation zone and provides for short-term closures of areas in that zone when high abundance levels of leatherback turtles are documented. Upon such documentation, NMFS will prohibit, in the closed areas, fishing by any shrimp trawler required to have a turtle excluder device (TED) installed in each net that is rigged for fishing, unless the TED installed is specified in the regulations as having an escape opening large enough to exclude leatherback turtles. This rule is necessary to reduce mortality of endangered leatherback sea turtles incidentally captured in shrimp trawls.

EFFECTIVE DATE: October 16, 1995.

ADDRESSES: Requests for a copy of the environmental assessment (EA) or the contingency plan, prepared for this rule should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, (813) 570–5312, or Phil Williams, (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act (ESA) of 1973. The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered. The incidental take and mortality of these species, as a result of fishing activities, have been documented in the Gulf of Mexico and along the Atlantic seaboard.

Under the ESA and its implementing regulations, it is prohibited to take sea turtles. The incidental taking of turtles during shrimp fishing in the Atlantic Ocean off the coast of the southeastern United States and in the Gulf of Mexico is excepted from the taking prohibition pursuant to sea turtle conservation regulations at 50 CFR 227.72, which include a requirement that shrimp trawlers have a NMFS-approved TED installed in each net rigged for fishing throughout the year. The use of TEDs significantly reduces mortalities of loggerhead, green, Kemp's ridley, and hawksbill sea turtles. Because

leatherback turtles are larger than the escape openings of most NMFS-approved TEDs, use of these TEDs is not an effective means of protecting leatherback turtles.

As a result of their primarily pelagic existence, leatherbacks normally occur outside of areas where they would be subject to taking by shrimp trawlers. During most months of the year, leatherbacks are not abundant in shrimping areas, and only isolated incidents of taking by trawlers occur. However, the coastal waters of northern Florida, Georgia, South Carolina, and North Carolina experience relatively high abundance levels of leatherbacks as a periodic winter and spring phenomenon. When leatherback abundance is high and shrimp trawlers are fishing, leatherback stranding pulses have been documented on adjacent beaches. A NMFS Biological Opinion prepared for a revision to the sea turtle conservation regulations, published in the **Federal Register** on December 4, 1992, (57 FR 57348), specifically addressed episodic stranding events from Florida through North Carolina, and required NMFS to develop and implement a contingency plan to solve this problem.

A contingency plan for protection of leatherback turtles on the Atlantic seaboard that can be implemented, if necessary, was prepared in cooperation with State officials from Florida, Georgia, and South Carolina. The necessity for implementation of protective measures for leatherback turtles is expected to be on an annual basis but only for short periods of time in relatively small, specific areas at any one time. The plan considers several options to provide protection, and any or all of them may be implemented, if necessary. These options include: Closure of areas to all fishing, use of restricted tow times in lieu of TEDs, mandatory observers, and use of NMFS-approved TEDs with escape openings large enough to exclude leatherback turtles.

Aerial surveys have been conducted for sea turtles off the Florida and Georgia coasts since 1988 and off the coast of South Carolina since 1993. Beginning in December or January each year, concentrations of leatherback turtles occur in northeastern Florida waters. During the month of March, leatherbacks begin moving north and usually enter Georgia waters in late March or early April. Peak concentrations occur in Georgia waters during April and May and by mid-June the concentrations have left Georgia. Leatherback concentrations occur in waters off South Carolina from late April generally through the first part of June.

Shrimping occurs year round in northeastern Florida waters, but the activity levels during any given month may vary from year to year. Shrimp fishing is closed in the State waters of Georgia until June 1 of each year, but shrimping begins in Federal waters off Georgia generally in April or early May. The State of South Carolina opens its waters to shrimping between May 15 and June 30, depending upon the presence of shrimp. Shrimping in Federal waters off South Carolina generally begins in early May. Based upon leatherback turtle concentration information and normal shrimp fishing activities, the most likely period for shrimp vessel interactions with leatherbacks in the leatherback conservation zone is January through June each year.

Each spring for the last 2 years, NMFS has issued temporary 30-day restrictions establishing a leatherback conservation zone (58 FR 28790, May 17, 1993; 59 FR 23169, May 5, 1994; 59 FR 29545, June 8, 1994). An interim rule (60 FR 25620, May 12, 1995) was issued this past year to provide a mechanism for short-term protection, and NMFS published a proposed rule (60 FR 25663, May 12, 1995) to provide for a permanent framework to protect leatherback sea turtles.

Comments and Responses on the Proposed Rule

No comments were received on the proposed rule.

Requirements

This rule establishes a framework whereby short-term closures may be instituted on an expedited basis in order to protect leatherbacks. Specifically, the rule establishes all inshore and offshore waters of the Atlantic area from Cape Canaveral, FL (28°24.6′ N. lat.), to the North Carolina-Virginia border (36°30.5′ N. lat.) as the ''leatherback conservation zone.''

During the months of January through June, NMFS will conduct weekly aerial surveys of the leatherback conservation zone. If sightings of leatherback turtles during such surveys exceed 10 animals per 50 nautical miles (nm) (92.6 km) of trackline, the survey will be replicated within 24 hours, or as soon as practicable thereafter, to ensure that leatherback turtle presence is persistent in the area. If surveys demonstrate the continued presence of large concentrations of leatherbacks, NMFS will prohibit shrimp fishing in these specific areas by any shrimp trawler required to have a NMFS-approved TED installed in each net rigged for fishing, unless the TED installed is one of the NMFS-approved TEDs described below. Those TEDs have been determined to have escape openings large enough to exclude leatherbacks. In addition, owners and operators of vessels operating in closed areas with an allowed TED, as described below, will be required to register with the Director, Southeast Region, NMFS (Regional Director) in accordance with 50 CFR 227.72(e)(6)(iv)(A) through (F). Upon written request by the Regional Director, they will be required to carry a NMFS-approved observer aboard such vessel(s). A shrimp trawler in the leatherback conservation zone will be required to comply with the terms and conditions specified in such written request, as well as provide information on trawling hours, gear modifications and turtle captures.

Notice of specific area closures will be published in the **Federal Register** and will be effective upon filing of such notice for public inspection at the Office of the Federal Register. Closures will be announced immediately on the NOAA weather channel, in newspapers, and other media. Areas with high leatherback abundance, as documented by the aerial surveys, will be closed for a period of 2 weeks. A closed area will include all, or a portion of, inshore and offshore waters 10 nm (18.5 km) seaward of the COLREGS demarcation line, bounded by 1° lat. coinciding with the trackline. Shrimp trawlers in the leatherback conservation zone will be responsible for monitoring the NOAA weather channel for closure announcements. Shrimp trawlers may also call (813) 570–5312 for updated area closure information.

NMFS-Approved TEDs With Escape Openings Large Enough for Leatherback Sea Turtles

NMFS has approved modifications to the Taylor and the Morrison TEDs, as well as a modification to the single-grid hard TED, that will allow leatherback turtles to escape the trawl. Descriptions of the Taylor and Morrison TED modifications are found at 50 CFR 227.72(e)(4)(iii)(E), and the modified single-grid hard TED is described at 50 CFR 227.72(e)(4)(i)(G)(*2*)(*ii*).

Classification

This rule has been determined to be not significant for purposes of E.O. 12866.

This rule establishes a registration program that contains a collection-of-information requirement subject to the Paperwork Reduction Act, namely, registration by vessels fishing in the

leatherback conservation zone from Cape Canaveral, FL, to the Virginia-North Carolina border. This collection has been approved by Office of Management and Budget under control number 0648–0267. The public reporting burden for this collection of information is estimated to average 7 minutes per response, including the time needed for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The Assistant Administrator for Fisheries, NOAA,(AA) prepared an EA for the interim rule (60 FR 25620, May 12, 1995) and concluded that, with specified mitigation measures, it will have no significant impact on the human environment. The AA has determined that the EA prepared for the interim rule is applicable to this final rule. Copies of the EA are available (see **ADDRESSES**).

Authority: 16 U.S.C. 1531–1544; and 16 U.S.C. 742a *et seq.*, unless otherwise noted; 16 U.S.C. 1531–1543; and 16 U.S.C. 1531 *et seq.*

Dated: September 7, 1995.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, the interim rule amending 50 CFR parts 217, 222, and 227, which was published at 60 FR 25620 on May 12, 1995, is adopted as a final rule without change.

[FR Doc. 95–22828 Filed 9–13–95; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register

Vol. 60, No. 178

Thursday, September 14, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM–50–62]

Nuclear Energy Institute; Receipt of a Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; Notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by the Nuclear Energy Institute (NEI) on behalf of the nuclear power industry. The petition has been docketed by the Commission and assigned Docket No. PRM–50–62. The petitioner requests that the NRC amend its regulations regarding quality assurance programs to permit nuclear power plant licensees to change their quality program described or referenced in a licensee's Safety Analysis Report (SAR) without prior NRC approval under specified conditions. The petitioner believes that this amendment would improve the regulatory process and increase the safety of commercial nuclear power plants through a more efficient use of agency and industry resources.

DATES: Submit comments by November 28, 1995. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except to those comments received on or before this date.

ADDRESSES: For a copy of the petition, write: Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Docketing and Services Branch.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm on Federal workdays.

Electronic Access, see **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washingtion, DC 20555–0001. Telephone: 301–415–7163 or Toll Free: 800–368–5642.

SUPPLEMENTARY INFORMATION:

Electronic Access

Comments may be submitted through the Internet by addressing electronic mail to INTERNET:SECY@NRC.GOV. Comments may also be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC Electronic Rulemaking Bulletin Board (BBS) on FEDWORLD.

The BBS is an electronic information system operated by the National Technical Information Service of the Department of Commerce. The purpose of this bulletin board BBS is to facilitate public participation in the NRC regulatory process, particularly rulemakings. With publication of this notice, proposed rulemakings and appropriate supporting documents will be available for review and comment on the BBS. These same documents are also available for review and comment at the NRC's Public Document Room, 2120 L Street, N.W. (Lower Level), Washington, DC. The BBS may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet.

The NRC rulemaking bulletin board (rulemaking subsystem) on FEDWORLD can be accessed directly by using a personal computer and modem, dialing the toll free number at 1–800–303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC rulemaking subsystem can then be accessed by selecting the ''Rules Menu'' option from the ''NRC Main Menu.'' For further information about options available for NRC at FEDWORLD consult the ''Help/Information Center'' from the ''NRC Main Menu.'' Users will find the ''FEDWORLD Online User's Guides'' particularly helpful. Many NRC subsystems and databases also have a ''Help/Information Center'' option that is tailored to the particular subsystem.

The NRC subsystem on FEDWORLD also can be accessed by a direct dial phone number for the main FEDWORLD BBS at 703–321–3339; or by using Telnet via Internet: fedworld.gov. Using the 703 number to contact FEDWORLD, the NRC subsystem will be accessed from the main FEDWORLD menu by selecting the ''Regulatory, Government Administration and State Systems,'' then selecting ''Regulatory Information Mall.'' At that point, a menu will be displayed that has the option ''U.S. Nuclear Regulatory Commission'' that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing ''/go nrc'' at a FEDWORLD command line. If you access NRC from FEDWORLD's main menu, then you may return to FEDWORLD by selecting the ''Return to FEDWORLD'' option from the NRC Online Main Menu. However, if you access NRC at FEDWORLD by using NRC's toll-free number, then you will have full access to all NRC systems, but you will not have access to the main FEDWORLD system.

If you contact FEDWORLD using Telnet, you will see the NRC area and menus, including the ''Rules Menu.'' Although you will be able to download documents and leave messages, you will not be able to write comments or upload files. If you contact FEDWORLD using File Transfer Program (FTP), all files can be accessed and downloaded, but uploads are not allowed, and all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is available. There is a 15-minute time limit for FTP access.

Although FEDWORLD also can be accessed through the World Wide Web as well, like FTP, that mode only provides access for downloading files, and does not display the NRC ''Rules Menu.''

For more information on NRC bulletin boards call Mr. Arthur Davis, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–5780; e-mail AXD3@nrc.gov.

The Petitioner

The petitioner is the Nuclear Energy Institute (NEI). NEI represents that it is responsible for establishing unified nuclear industry positions on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear power plant designers, major architect/engineering firms, fuel fabrication facilities, nuclear materials licensees, and other organizations and individuals involved in the nuclear energy industry.

Background

The NRC received an NEI petition for rulemaking on June 12, 1995. The petition is dated June 8, 1995, and was docketed as PRM–50–62 on June 19, 1995. The petitioner requests that the NRC amend its regulations in 10 CFR 50.54(a) to permit licensees to make certain changes to their quality assurance programs without prior approval from the NRC. The petitioner believes that this will change the quality assurance process consistent with the change process for other matters described in the SAR.

Discussion of the Petition

The petition states that the current § 50.54(a) allows NRC licensees to change their quality assurance programs as long as any prior commitment in that program is not reduced. The petitioner believes that if a commitment is to be reduced, a licensee needs NRC approval prior to implementation. The petitioner believes that this requirement is sometimes interpreted by the NRC as requiring NRC prior approval for any changes in the quality program, no matter the degree of safety significance. The petitioner believes that prolonged and sometimes unnecessary regulatory interactions often occur centered on the correct interpretation of the term ''reduction in commitment.'' The petitioner cites the following examples of topics that have been the subject of concern in the past:

- Changes in the level of approval of administrative, implementation or policy procedures, regardless of the safety significance.
- Changes in the company organization as it is described in the licensee's original quality plan.
- Changes to audit, review or surveillance frequencies that have minimal, if any, safety significance.
- Adoption of a more recent national standard that may, or may not, have been endorsed by the NRC staff that results in a different implementation methodology, yet fulfills the same function and achieves the same objective as the original standard described in the quality program description through the use of enhanced technology or other developments.
- Adoption of different, more effective and efficient quality processes than those described in a licensee's original quality plant based on the safety significance and past operating performance.

The petitioner believes that the current provisions of § 50.54(a) related to the quality assurance program change process are inconsistent with the requirements associated with other changes to the SAR (see § 50.59).

The petitioner believes that a licensee's inability to adjust its quality assurance program descriptions and commitments without prior NRC approval is a significant administrative burden on a licensee and can distract a licensee and the NRC from more significant safety matters. The petitioner also believes that the proposed amendment would improve regulatory consistency by instituting the same type of change process for the quality assurance program described or referenced in the SAR (i.e., a change process similar to the process delineated in § 50.59). The petitioner believes that the proposed amendment ensures that the attention and resources of NRC and industry would be more appropriately and effectively focused on issues that could have an adverse effect on public health and safety.

The petitioner further believes that the proposed amendment is consistent with the overall objectives of the 1993 Report of the National Performance Review, conducted by the Vice President of the United States, and the 1995 congressional initiatives on improving Federal regulations. In conjunction with phase two of the NRC's national performance review study, a review of current NRC regulations has been performed to identify regulations that are obsolete, unnecessarily burdensome, too prescriptive, or that overlap or duplicate other regulations.

The petitioner states that the NRC's Regulatory Review Group (RRG), in its review of power reactor regulations and related processes, programs, and practices, identified specific examples of inconsistency and incoherence in the current regulations and their associated administrative requirements. The RRG also provided recommendations for improvement. The petitioner states that, in some of the areas reviewed by the RRG, licensees are responsible for controlling specific activities that are very similar in nature to the quality assurance process; however, these other activities are subject to different regulatory constraints, reporting, and record retention requirements.

The petitioner cites the following examples that the regulatory review group provided in its report of August 1993:

- Changes that can be made by a licensee to a facility or procedures without prior NRC approval if the change does not require a change to the Technical Specifications or involve an unreviewed safety question * * *.
- Changes that can only be made to a licensee's quality assurance program described or referenced in the SAR without prior NRC approval if they do not reduce commitments in the program description previously accepted by the NRC, even if the changes do not affect the Technical Specifications, involve unreviewed safety questions, or have any adverse safety significance * * *.
- Varying record retention and reporting frequencies for activities of a similar nature, such as those associated with quality assurance and changes to the SAR.

The petitioner agrees with the NRC's RRG finding that there is no reason for these inconsistencies in the NRC's regulations. The petitioner believes that regulatory effectiveness would be improved, the burden on licensees and the NRC reduced, and regulatory coherence enhanced if there were a consistent change process for changes to the facility, its procedures, tests and experiments, or other matters as described in the SAR.

The petitioner states that in the development of a more efficient and effective quality regime, it is important that licensees not be discouraged by an unnecessary administrative burden of seeking prior NRC approval when a change is of no regulatory significance (i.e., does not result in non-compliance with the NRC's regulations, a change to the technical specifications, or an unreviewed safety question). The petitioner also states that in an evolving technological environment, each licensee should be allowed the opportunity to respond to improvements in technology, industry operating experiences, and new operational or technical information by making changes to its quality assurance program that do not degrade protection of the public health and safety without the need for administrative and managerial regulatory interactions.

The petitioner states that the proposed amendment does not

introduce a new type of change process. The petitioner believes that the proposed amendment is based on a well-tried and proven process for making changes to a facility, its procedures, tests, or activities that are described or referenced in the SAR. Compliance with the regulations to ensure proper control of a facility and the quality program associated with the protection of public health and safety is still provided by the adoption of a change process that is similar to the established § 50.59 process.

Section 50.59, Changes, tests and experiments, allows the holder of a license authorizing operation of a production or utilization facility to (i) make changes in the facility as described in the SAR, (ii) make changes in the procedures as described in the SAR, and (iii) conduct tests or experiments not described in the SAR, without prior Commission approval, unless the proposed changes, tests, or experiments, involve a change in the technical specifications incorporated into the license or an unreviewed safety question.

The petitioner believes that its proposed amendment would allow the licensee to have the authority to change its quality program if analysis, as described in § 50.59, demonstrates that a proposed change does not involve an unreviewed safety question or change the technical specifications. The petitioner states that the analysis to support this determination would be consistent with that required to support other types of changes to an SAR; therefore, it would be based on the well-proven and established industry guidance.

The petitioner believes that if the analysis of a proposed change to the quality assurance program indicates that any unreviewed safety questions may be involved, a licensee would either decide not to institute the change or submit the change for NRC approval before implementation. For changes involving an unreviewed safety question, the complete change, including the safety evaluation, would be submitted in accordance with the requirements of § 50.90.

The petitioner states that the proposed amendment would maintain the requirements of § 50.4, requiring licensees to submit a report containing a summary description of the changes to the quality assurance program described or referenced in the SAR. The petitioner states that the report would be submitted annually, or along with the FSAR updates as required by § 50.71(e), or at shorter intervals as determined by each licensee. The petitioner states that licensees would maintain records of the changes as facility records for 5 years, a period that is consistent with other similar NRC regulations (e.g. § 50.59).

The NEI did not address the impact of removing § 50.4(b)(7)(i) from the Commission's regulations or why NEI believes the deletion is necessary.

The petitioner's suggested amendment would require that only a summary, not a detailed safety evaluation, be submitted to the NRC for changes that do not involve a Technical Specification change or an unreviewed safety question. The petitioner believes that this is consistent with the requirements of similar regulations (§ 50.59). The petitioner also believes that the proposed amendment would require that licensees maintain records of these evaluations until the termination of the license.

The petitioner has provided supplemental analyses to facilitate the NRC's consideration of the effect of the proposed action on the environment and small business entities, as well as the paperwork burden on all entities that would be affected by the change. NEI also included analyses to assist NRC in its consideration of the need for a regulatory analysis or application of the backfit rule to this rulemaking.

The NRC is soliciting public comment on NEI's petition requesting the changes to regulations in 10 CFR Part 50 as discussed below.

The Petitioner's Proposed Amendment

The petitioner recommends the following amendments to 10 CFR Part 50.

§ 50.4 [Amended]

1. In § 50.4, paragraph (b)(7)(i) and the designation for paragraph (b)(7)(ii) are removed.

* * * * *

2. In § 50.54, paragraph (a) is revised to read as follows:

§ 50.54 Conditions of licenses.

(a)(1) Each nuclear power plant or fuel reprocessing plant licensee shall implement a quality assurance program pursuant to § 50.34(b)(6)(ii) of this part, as described or referenced in its Safety Analysis Report.

(2) Each licensee described in paragraph (a)(1) of this section may make a change to a previously accepted quality assurance program description included or referenced in its Safety Analysis Report without prior Commission approval unless the proposed change involves a change to the technical specifications incorporated in the license or involves an unreviewed safety question.

(i) A change shall be deemed to involve an unreviewed safety question (A) if the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in a licensee's Safety Analysis Report may be increased; or (B) if a possibility for an accident or malfunction of a different type than any previously evaluated in a licensee's Safety Analysis Report may be created; or (C) if the margin of safety as defined in the basis for any technical specification is reduced.

(ii) When changes are made to a previously accepted quality assurance program description, a licensee shall submit, as specified in § 50.4, a report containing a brief description of the change, including a summary of the safety evaluation of each change. The report may be submitted annually, or along with FSAR updates as required by § 50.71(e), or at shorter intervals as determined by each licensee.

(iii) Records of changes to the quality assurance program shall be maintained as facility records for five years.

(3) For changes to the quality assurance program description that involve an unreviewed safety question, licensees shall submit the proposed change to the NRC for approval before implementation. The licensee shall submit the application to amend the quality assurance program pursuant to the requirements of § 50.90.

(4) For changes that involve a change to the technical specifications, a licensee shall submit an application for a license amendment pursuant to § 50.90.

* * * * *

Specific Areas for Public Comment

In addition to commenting on the petition for rulemaking (petition) presented above, the NRC staff is soliciting specific comments on the issues presented below. Because the NRC staff has not yet developed its positions on the petition, it is soliciting these comments to obtain information that it may consider in developing future rulemakings that provide procedures for licensees to make changes to its quality assurance program.

1. 10 CFR 50.54(a) was issued on January 10, 1983, to correct instances where licensees had changed their programs that resulted in some unacceptable programs without informing the NRC. What assurances exist to prevent a similar situation from recurring if the petition and the revised threshold for reporting QA program changes is adopted? Is it necessary that such situations be prevented from

occurring by adoption of a regulatory approval system?

2. Traditionally, the NRC staff has used a variety of documents such as the NRC Standard Review Plan, NRC Regulatory Guides, and associated industry consensus standards to delineate what QA program elements are necessary to meet Appendix B. Should these standards continue to be used to define acceptable QA programs? Should a licensee QA program change that constitutes a departure from a commitment to comply with a specific regulatory position be considered of sufficient importance that the NRC should be notified in advance of implementation? How would such changes be evaluated under the petitioner's proposed criterion?

3. The NRC has allowed licensees to relocate administrative controls for review and audit functions from the technical specifications. Examples include details on safety review committees, audits, and technical review functions. These have been relocated to the QA program based on the existing change control provisions in § 50.54(a). Would it be appropriate for activities such as safety review committees, independent technical review groups, and audits to be controlled so that only licensee changes exceeding the threshold of an unreviewed safety question (USQ) be reported to the NRC for pre-review before implementation? What kind of changes to a licensee's QA program would constitute a USQ? Assuming that the USQ should/could be applied, does not the use of § 50.59 effectively negate the administrative and regulatory advantage of removing this information from technical specifications (because both technical specification changes and USQs are subject to an opportunity for hearing)? If the revised QA change control mechanism is adopted should aspects of the review and audit functions remain in the QA program or be relocated elsewhere to ensure appropriate NRC review of changes prior to implementation?

4. Are there alternative thresholds for determining whether a licensee must submit their QA program changes for advance review in lieu of the USQ threshold? Provide a technical and/or policy explanation as to why this or any other threshold would be more appropriate.

5. The NRC Regulatory Review Group (RRG) examined change control mechanisms in § 50.54 for control of licensee plans and programs (quality assurance, security, and emergency preparedness). The RRG recommended that licensees should have greater flexibility to make changes in their programs without having to receive prior NRC approval. Currently, QA program changes that ''reduce the commitments in the program'' are submitted for NRC staff review before implementation. Similarly, security plan changes that ''decrease the effectiveness'' are submitted for staff review before implementation. Should the staff consider a revision to § 50.54(a) to set the threshold for reporting QA program changes for NRC pre-review that constitute a decrease in effectiveness? Would a ''decrease in effectiveness'' standard in § 50.54(a) provide a sufficiently flexible and technically reasonable criteria for licensees to report QA program changes to the staff before implementation?

6. Should the NRC staff consider retaining the current language of § 50.54(a) and to define explicit guidance or identify examples on what types of QA program changes would be considered to ''reduce the commitments in the program''? By developing this guidance could sufficient flexibility be afforded to licensees to make changes in their QA program without having to undergo a pre-review by the staff?

7. The petition proposes to apply a § 50.59 process to evaluate QA program changes to determine the necessity for pre-review by the staff. Industry guidance for § 50.59 exists within NSAC–125 ''Guidelines for § 50.59 Safety Evaluations.'' NSAC–125 appears to contain little relevant guidance that would be helpful for determining whether QA programmatic changes would constitute a USQ that requires NRC pre-review of the change. In particular, Section 4.2 of NSAC–125 deals principally with evaluating changes associated with nuclear plant equipment and not programmatic controls. Is existing guidance for processing 10 CFR 50.59 evaluations sufficient for evaluating QA program changes? What factors or aspects of the existing industry guidance would need to be supplemented? What types of QA program changes would be necessary to report to the NRC if the current § 50.59 criteria were applied to QA program changes? What are examples of QA program changes that should be considered as meeting the USQ threshold?

8. Would protection of the public health and safety be enhanced if the petition were granted, and if so, in what way? What licensee and NRC costs would be reduced, or increased, if the petition were granted?

Dated at Rockville, Maryland, this 7th day of September, 1995.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 95–22705 Filed 9–13–95; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 353

RIN 3064–AB63

Suspicious Activity Reporting

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is proposing to revise and restructure its regulation on the reporting of suspicious activities by insured state nonmember banks, including the reporting of suspicious financial transactions, such as suspected violations of the Bank Secrecy Act (BSA). This proposal implements a new interagency suspicious activity referral process and updates and clarifies various portions of the underlying reporting regulation. The proposal also reduces substantially the burden on banks in reporting suspicious activities while enhancing access to such information by both the federal law enforcement and the federal financial institutions supervisory agencies, thus meeting the goals of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

DATES: Comments must be received by November 13, 1995.

ADDRESSES: Written comments shall be addressed to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. Comments may be hand delivered to Room F–402, 1776 F Street NW., Washington, DC 20429, on business days between 8:30 a.m. and 5:00 p.m. [Fax number: 202/898–3838; (Internet address: comments@fdic.gov] Comments will be available for inspection at the Corporation's Reading Room, Room 7118, 550 17th Street NW., Washington, DC between 9:00 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Carol A. Mesheske, Chief, Special Activities Section, (202/898–6750), or Gregory Gore, Counsel, (202) 898–7109.

SUPPLEMENTARY INFORMATION:

Background

The federal financial institutions supervisory agencies (the Agencies)[1] and the Department of the Treasury (Treasury), through its Financial Crimes Enforcement Network (FinCEN), are responsible for ensuring that financial institutions apprise federal law enforcement authorities of any known or suspected violation of a federal criminal statute and of any suspicious financial transaction. Suspicious financial transactions, which will be the subject of regulations and other guidance to be issued by Treasury, can include transactions that the bank suspects involved funds derived from illicit activities, were conducted for the purpose of hiding or disguising funds from illicit activity, otherwise violated the money laundering statutes (18 U.S.C. 1956 and 1957), were potentially designed to evade the reporting or recordkeeping requirements of the Bank Secrecy Act (BSA) (31 U.S.C. 5311 through 5330), or transactions the bank believes were suspicious for any other reason.

Fraud, abusive insider transactions, check kiting schemes, money laundering, and other crimes can pose serious threats to a financial institution's continued viability and, if unchecked, can undermine the public confidence in the nation's financial industry. The Agencies and federal law enforcement agencies need to receive timely and detailed information regarding suspected criminal activity to determine whether investigations, administrative actions, or criminal prosecutions are warranted.

An interagency Bank Fraud Working Group (BFWG), consisting of representatives from many federal agencies, including the Agencies and law enforcement agencies, was formed in 1984. The BFWG addresses substantive issues, promotes cooperation among the Agencies and federal and state law enforcement agencies, and improves the federal government's response to white collar crime in financial institutions. It is under the auspices of the BFWG that the revisions to this regulation and the reporting requirements are being made.

Suspicious Activity Report

The Agencies have been working on a project to improve the criminal referral process, to reduce unnecessary reporting burdens on banks, and to eliminate confusion associated with the current duplicative reporting of suspicious financial transactions in criminal referral forms and currency transaction reports (CTRs). Contemporaneously, Treasury analyzed the need to revise the procedures used by financial institutions for reporting suspicious financial transactions. As a result of these reviews, the Agencies and Treasury approved the development of a new referral process that includes suspicious financial transaction reporting.

To implement the reporting process, and to reduce unnecessary burdens associated with these various reporting requirements, the Agencies and FinCEN developed a new interagency form for reporting known or suspected federal criminal law violations and suspicious financial transactions. The new report is designated the Suspicious Activity Report (SAR). The SAR is a simplified and shortened version of its predecessors. The new referral process and the SAR reduce the burden on banks for reporting known or suspected violations and suspicious financial transactions. The agencies anticipate the new process will be instituted by October, 1995.

Proposal

The FDIC proposes to revise 12 CFR part 353 by updating and clarifying the current rule governing the filing of criminal referral reports; expanding the rule to cover suspicious financial transactions; implementing the new SAR; and simplifying reporting requirements. This action should improve reporting of known or suspected violations and suspicious financial transactions relating to federally insured financial institutions while providing uniform data for entry into a new interagency computer database. The FDIC expects that each of the other Agencies will be making substantially similar changes contemporaneously.

The principal proposed changes to the current criminal referral reporting rules include several notable changes. They include: (i) Raising the mandatory reporting thresholds for criminal offenses, thereby reducing banks' reporting burdens; (ii) filing only one form with a single repository, rather than submitting multiple copies to several federal law enforcement and banking agencies, thereby further reducing reporting burdens; and (iii) clarifying the criminal referral and reporting requirements of the Agencies and Treasury associated with suspicious financial transactions, thereby eliminating confusion concerning the filing of referrals related to suspicious financial transactions of less than $10,000 and eliminating duplicative referrals.

The proposal also involves the manner in which financial institutions file a SAR. In following the instructions on a SAR, banks may file the referral form in several ways, including submitting an original form or a photocopy or filing by magnetic means, such as by a computer disk.

The Agencies, working with FinCEN, are developing computer software to assist banks in preparing and filing SARs. The software will allow a bank to complete a SAR, to save the SAR on its computers, and to print a hard copy of the SAR for its own records. The computer software will also enable a bank to file a SAR using various forms of magnetic media, such as computer disk or magnetic tape. The FDIC will make the software available to all its supervised institutions free of charge.

Part 353—Suspicious Activity Reports

The title of the regulation has been changed to conform to the name on the SAR. The current part is titled ''Reports of Apparent Crimes Affecting Insured Nonmember Banks''. The proposed heading, ''Suspicious Activity Reports'', conforms to the name of the report.

Section 353.1 Purpose and Scope

The proposal restructures the current § 353.0, redesignates it as § 353.1, and clarifies the scope of the current rule. Under the proposal, the SAR replaces the various criminal referral forms that the Agencies currently require banks to file. Also, a bank files a SAR to report a suspicious financial transaction. Presently, many banks are confused over whether to file a CTR or a criminal referral form when a suspicious financial transaction occurs, and often needlessly file both forms or the wrong form.[2]

Combining suspicious financial transaction reporting and criminal referral reporting should reduce confusion, increase the accuracy and efficiency of reporting, and reduce the burden on banks in reporting known or

[1] The federal financial institutions supervisory agencies are the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the National Credit Union Administration.

[2] The BSA requires all financial institutions to file CTRs in accordance with the Department of the Treasury's implementing regulations (31 CFR part 103). Part 103 requires a financial institution to file a CTR whenever a currency transaction exceeds $10,000. If a currency transaction exceeds $10,000 and is suspicious, the bank, under these new requirements, will file both a CTR (reporting the currency transaction) and a SAR (reporting the suspicious criminal aspect of the transaction). If a currency transaction equals or is below $10,000 but is suspicious, the bank will file only a SAR.

suspected violations, including suspicious financial transactions.

Section 353.2 Definitions

Proposed new § 353.2 defines the following terms: ''FinCEN'', ''institution-affiliated party'', and ''known or suspected violation''. The definitions should make the rule easier to interpret and apply.

Section 353.3 Reports and Records

Proposed § 353.3, which replaces and restructures current § 353.1, clarifies and expands the provision that requires a bank to file a completed SAR. This provision raises the dollar thresholds that trigger a filing requirement. It also modifies the scope of events that a bank must report by using the term ''known or suspected violation,'' which is defined at § 353.2(c), and by requiring that a bank file a SAR to report a suspicious financial transaction.

Under the current rule, the FDIC requires a bank to file a criminal referral form with many different federal agencies. The proposal requires a bank to file only a single SAR at one location, rather than the multiple copies of the criminal referral form that must now be filed with various federal agencies.

Under proposed § 353.3, a bank effectively files a SAR with all appropriate federal law enforcement agencies by sending a single copy of the SAR to FinCEN, whose address will be printed on the SAR.

FinCEN will input the information contained on the SARs into a newly created database that FinCEN will maintain. This process meets the regulatory requirement that a bank refer any known or suspected criminal violation to the various federal law enforcement agencies. The information is made available on computer to the appropriate law enforcement and supervisory agencies as quickly as possible. The database will enhance federal law enforcement and supervisory agencies' ability to track, investigate, and prosecute, criminally, civilly, and administratively, individuals suspected of violating federal criminal law. This change will reduce the filing burdens of banks.

The proposal modifies current § 353.1(a)(2), which requires reporting of known or suspected criminal activity when a bank has a substantial basis for identifying a non-insider suspect where bank funds or other assets involve or aggregate $1,000 or more. Proposed § 353.3(a)(2), which replaces current § 353.1(a)(2), raises the reporting threshold to $5,000, thereby reducing the reporting burden on banks.

The proposal also modifies current § 353.1(a)(3), which requires banks to report any known or suspected criminal violation involving $5,000 or more where the bank has no substantial basis for identifying a suspect. Specifically, proposed § 353.3(a)(3), which replaces current § 353.1(a)(3), raises the dollar reporting threshold from $5,000 to $25,000, thereby reducing the reporting burden on banks.

Proposed § 353.3(a)(4) clarifies the reporting requirement for any financial transaction, regardless of the dollar amount, that: (1) the bank suspects involved funds derived from illicit activity, was conducted for the purpose of hiding or disguising funds from illicit activity, or in any way violated the money laundering statutes (18 U.S.C. 1956 and 1957); (2) the bank suspects was potentially designed to evade the reporting or recordkeeping requirements of the BSA (31 U.S.C. 5311 through 5330); or (3) the bank believes to be suspicious for any reason.

Section 353.3(b) Time for Reporting

Proposed § 353.3(b), which replaces current § 353.1(b), sets forth the time requirements a bank must meet when filing a SAR. The proposal clarifies the reporting requirement in the event a suspect or group of suspects is not immediately identified. The proposal does not substantively change the current requirements.

Section 353.3(c) Reports to State and Local Authorities

No changes are being made to the current § 353.1(c), except to redesignate it as 353.3(c).

Section 353.3(d) Exemptions

No changes are being made to the current 353.1(d), other than to redesignate it as 353.3(d) and to delete the reference to § 326.3(a)(2)(i) of this chapter.

Section 353.3(e) Retention of Records

Proposed § 353.3(e) requires a bank to retain a copy of the SAR and the original of any related documentation relating to a SAR for a period of ten years. This time frame corresponds with the statute of limitations for most federal criminal statutes involving financial institutions. The current rule is silent on this issue.

The proposed 353.3(e) clarifies the requirement that banks make all supporting documentation available to appropriate law enforcement agencies upon request. The proposal requires the supporting documentation be identified and treated as filed with the SAR. This approach ensures federal law enforcement agencies and the Agencies, upon request, have access to any documentation necessary to prosecute a violation or pursue an administrative action by requiring banks to preserve underlying documentation for ten years.

Section 353.3(f) Notification to the Board of Directors

Current § 353.1(f) requires notification regarding the filing of a SAR to an insured state nonmember bank's board of directors by the bank's management. To reduce burdens on the boards of directors of banks, especially those large banks that file many SARs, the proposal recognizes that the required notification may be made to a committee of the board.

Section 353.3(g) Confidentiality of SARs

FDIC proposes to add a new paragraph relating to the confidentiality of a SAR. Proposed § 353.3(g) states that a SAR and the information contained in a SAR are confidential, and an insured state nonmember bank should decline to produce a SAR citing this regulation and applicable law (31 U.S.C. 5318(g)), or both.

Comments

The FDIC invites public comment on all aspects of this proposal.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the FDIC hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposal primarily reorganizes the process for making criminal referrals and has no material impact on banks, regardless of size. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

This proposed rule would revise a collection of information that is currently approved by the Office of Management and Budget (OMB) under control number 3064–0077. The revisions raise the reporting thresholds and will permit reporting institutions to use a simplified, shorter form; to file one form only; and to eliminate the submission of supporting documentation with a report. These revisions have been submitted to OMB for review and approval in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

The estimated average burden associated with the collection of information contained in a SAR is approximately .6 hours per respondent.

The burden per respondent will vary depending on the nature of the suspicious activity being reported.

Estimated Number of Respondents: 6,500.

Estimated Total Annual Burden Hours: 3,900.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Assistant Executive Secretary (Administration), Room F–400, Federal Deposit Insurance Corporation, Washington, DC 20429, and to the Office of Management and Budget, Paperwork Reduction Project (3064–0077), Washington, DC 20503.

List of Subjects in 12 CFR Part 353

Banks, banking, Crime, Currency, Insider abuse, Money laundering, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 12 CFR part 353 is proposed to be revised to read as follows:

PART 353—SUSPICIOUS ACTIVITY REPORTS

Sec.
353.1 Purpose and scope.
353.2 Definitions.
353.3 Reports and records.

Authority: 12 U.S.C. 1818, 1819.

§ 353.1 Purpose and scope.

The purpose of this part is to ensure that insured state nonmember banks file a Suspicious Activity Report when they detect a known or suspected violation of federal law or suspicious financial transaction. This part applies to all insured state nonmember banks as well as any insured, state-licensed branches of foreign banks.

§ 353.2 Definitions.

For the purposes of this part:

(a) *FinCEN* means the Financial Crimes Enforcement Network of the Department of the Treasury.

(b) *Institution-affiliated party* means any institution-affiliated party as that term is defined in sections 3(u) and 8(b)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u) and 1818(b)(5)).

(c) *Known or suspected violation* means any matter for which there is a basis to believe that a violation of a federal criminal statute (including a pattern of criminal violations) has occurred or has been attempted, is occurring, or may occur, and there is a basis to believe that a financial institution was an actual or potential victim of the criminal violation or was used to facilitate the criminal violation.

§ 353.3 Reports and records.

(a) *Suspicious activity reports required.* A bank shall file a suspicious activity report with the appropriate federal law enforcement agencies in accordance with the form's instructions, by transmitting a completed suspicious activity report to FinCEN in the following circumstances:

(1) Whenever the bank detects a known or suspected violation of federal criminal law and has a substantial basis to believe that one of its directors, officers, employees, agents, or other institution-affiliated parties committed or aided in the commission of the violation;

(2) Whenever the bank detects a known or suspected violation of federal criminal law, involving or aggregating $5,000 or more (before reimbursement or recovery), and the bank has a substantial basis for identifying a possible suspect or group of suspects;

(3) Whenever the bank detects a known or suspected violation of federal criminal law, involving or aggregating $25,000 or more (before reimbursement or recovery), and the bank has no substantial basis for identifying a possible suspect or group of suspects; or

(4) Whenever the bank detects any financial transaction conducted, or attempted, at the bank involving funds derived from illicit activity or for the purpose of hiding or disguising funds from illicit activities, or for the possible violation or evasion of the Bank Secrecy Act reporting and/or recordkeeping requirements. A suspicious activity report must be filed for all instances where money laundering is suspected or where the bank believes that the transaction was suspicious for any reason, regardless of the identification of a potential suspect or the amount involved in the violation.

(b) *Time for reporting.* (1) A bank shall file the suspicious activity report no later than 30 calendar days after the date of initial detection of an act described in paragraph (a) of this section. If no suspect was identified on the date of detection of an act triggering the filing, a bank may delay filing a suspicious activity report for an additional 30 calendar days after the identification of a suspect. In no case shall reporting be delayed more than 60 calendar days after the date of detecting a known or suspected violation.

(2) In situations involving violations requiring immediate attention, such as when a reportable violation is ongoing, the bank shall immediately notify by telephone, or other expeditious means, the appropriate law enforcement agency and the appropriate FDIC regional office (Division of Supervision) in addition to filing a timely report.

(c) *Reports to state and local authorities.* A bank is encouraged to file a copy of the suspicious activity report with state and local law enforcement agencies where appropriate.

(d) *Exemptions.* (1) A bank need not file a suspicious activity report for a robbery, burglary or larceny, committed or attempted, that is reported to appropriate law enforcement authorities.

(2) A bank need not file a suspicious activity report for lost, missing, counterfeit, or stolen securities if it files a report pursuant to the reporting requirements of 17 CFR 240.17f-1.

(e) *Retention of records.* A bank shall maintain a copy of any suspicious activity report filed and the originals of any related documentation for a period of ten years from the date of filing the suspicious activity report. A bank shall make all supporting documentation available to appropriate law enforcement agencies upon request. Supporting documentation shall be identified and treated as filed with the suspicious activity report.

(f) *Notification to board of directors.* The management of the bank shall promptly notify its board of directors, or a designated committee thereof, of any report filed pursuant to this section. The term ''board of directors'' includes the managing official of an insured state-licensed branch of a foreign bank for purposes of this part.

(g) *Confidentiality of suspicious activity reports.* Suspicious activity reports are confidential. Any person subpoenaed or otherwise requested to disclose a suspicious activity report or the information contained in a suspicious activity report shall decline to produce the information citing this part, applicable law (*e.g.*, 31 U.S.C. 5318(g)), or both.

By Order of the Board of Directors.

Dated at Washington, DC, this 6th day of September, 1995.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 95–22750 Filed 9–13–95; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[FI–7–94]

RIN 1545–AS49

Arbitrage Restrictions on Tax-Exempt Bonds; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Change of date and location for public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the arbitrage and related restrictions applicable to tax-exempt bonds issued by State and local governments.

DATES: The public hearing will be held Thursday, October 12, 1995, beginning at 10:00 a.m. Requests to speak and outlines of oral comments must be received by Thursday, September 21, 1995.

ADDRESSES: The public hearing will be held in room 3313, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Requests to speak and outlines of oral comments should be mailed to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:DOM:CORP:R [FI–7–94], room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Christina Vasquez of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–6803 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The notice of proposed rulemaking appeared in the **Federal Register** on Tuesday, May 10, 1994 (59 FR 24094). A notice of public hearing appearing in the **Federal Register** on Thursday, August 17, 1995 (60 FR 42819) announced that the Service would hold a public hearing on proposed regulations relating to the arbitrage and related restrictions applicable to tax-exempt bonds issued by State and local governments on Monday, September 25, 1995, beginning at 10:00 a.m. in the IRS Auditorium.

The date and location of the public hearing has changed. The hearing is scheduled for Thursday, October 12, 1995, beginning at 10:00 a.m. in room 3313, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Because of controlled access restrictions, attenders are not admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

The Service will prepare an agenda showing the scheduling of the speakers after the outlines are received from the persons testifying and make copies available free of charge at the hearing.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 95–22791 Filed 9–13–95; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107, 171, 172, 173 and 178

[Docket No. HM–207C, Notice No. 95–9]

RIN 2137–AC63

Exemption, Approval, Registration and Reporting Procedures; Miscellaneous Provisions

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: To expedite processing of applications and to promote clarity and program consistency, RSPA is proposing to revise the procedures for applying for exemptions and to establish procedures for applying for approvals, registering (other than the hazmat registration program), and reporting. In addition, the proposed rule would amend in minor ways a number of provisions, mostly procedural. The intended effect of this NPRM is to provide guidance for persons required to obtain an approval, register, or report with RSPA. By clarifying the requirements, RSPA would reduce the need to seek additional information necessary to complete the processing of applications. The proposed changes also would reduce the processing time.

DATES: *Comments.* Comments must be received by November 28, 1995.

ADDRESSES: *Comments.* Address comments to Dockets Unit (DHM–30), Hazardous Materials Safety, RSPA, U.S. Department of Transportation, Washington, DC 20590–0001. Comments should identify the docket and notice number and be submitted, when possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped postcard. The Dockets Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street SW, Washington DC 20590–0001. Office hours are 8:30 am to 5:00 pm Monday through Friday, except on public holidays when the office is closed.

FOR FURTHER INFORMATION CONTACT: Jennifer Antonielli, Office of Hazardous Materials Standards, (800) 467–4922, or Kathleen Molinar, Office of the Chief Counsel, (202) 366–4400, RSPA, Department of Transportation, 400 Seventh Street SW, Washington DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal hazardous material transportation law (Federal hazmat law), 49 U.S.C. 5101–5127, directs the Secretary of Transportation to prescribe regulations for the safe transportation of hazardous material in commerce. 49 U.S.C. 5103. The Research and Special Programs Administration (RSPA) is the administration within the Department of Transportation primarily responsible for implementing the Federal hazmat law. 49 CFR 1.53. RSPA does so through the Hazardous Materials Regulations (HMR), 49 CFR parts 171–180. Under 49 U.S.C. 5117(a), RSPA is authorized to issue an exemption from the Federal hazmat law or the HMR if an applicant demonstrates that public safety will not be compromised. The procedures governing application for an exemption and the manner in which the application is processed are found at 49 CFR subpart B of part 107.

In addition, in numerous instances the HMR require authorization by or registration with RSPA before a person may engage in particular hazmat transportation-related activities in areas such as manufacturing and certifying hazardous material packagings, offering hazardous material for transportation, and transporting hazardous material. Elsewhere, the HMR impose reporting requirements on those engaging in certain hazmat transportation activity. A significant portion of the regulated community is subject to one or more of these types of requirements. Procedures to be followed in seeking an approval from RSPA, registering with RSPA or reporting to RSPA may be found in the HMR provision establishing the particular requirement, but in many cases these procedures are absent or incomplete. There are no general procedural rules in the HMR governing these matters.

This proposed rule would revise existing exemption procedures at 49 CFR subpart B of part 107 and create a new subpart H of part 107 to establish a similar procedural framework for approvals, registrations and reports.

RSPA processes numerous approval, registration and reporting matters, and practices have developed over time. Nevertheless, establishment of formal procedures through regulation provides desirable guidance to all those who now or in the future may be subject to HMR approval, registration or reporting requirements, and fosters the greatest possible consistency in RSPA's handling of these matters. The proposed procedures, in many respects, parallel those for exemptions, and this rule would modify them, and largely codify the approval, registration and reporting procedures that RSPA currently follows. Establishing procedures in 49 CFR part 107 for approvals, registration, and reports would minimize the need for RSPA to seek information from applicants in order to complete the processing of applications.

The procedures for approvals, registration and reporting are limited in their application in two respects. First, under the HMR, other Federal agencies, including the United States Coast Guard, the Federal Highway Administration, the Nuclear Regulatory Commission, the Departments of Defense and Energy, the Bureau of Mines, the Bureau of Alcohol, Tobacco and Firearms, and non-Federal entities such as the Association of American Railroads, issue approvals or receive registrations or reports under the HMR. For example, under § 176.415, Coast Guard approval must be obtained before loading or unloading certain explosives onto or from vessels. The procedures established in this rulemaking would apply only with respect to those matters that, under the HMR, are handled by RSPA. Those matters for which the HMR assigns responsibility to other entities will continue to be handled according to the procedures of those entities.

Second, this rule does not supersede existing procedures for approvals, registration, or reporting, such as the minimum content of the application or the RSPA office where it is to be filed. Where 49 CFR subpart H of part 107 supplements a specific HMR requirement, both will apply. In the unlikely event that subpart H conflicts with an element of the specific approval, registration, or reporting requirement, the specific requirement will govern. Comments are invited on any apparent conflicts.

Proposed amendment of selected provisions in 49 CFR part 107 would clarify and, in some cases, slightly modify RSPA procedures with respect to rulemaking, preemption determinations and enforcement. Certain provisions of 49 CFR part 171 would be amended for clarity. Sections 172.302 and 173.22a would be amended to incorporate requirements currently in Appendix B to subpart B of part 107. A new § 178.3(d) would permit only those persons authorized under an exemption or their agents to certify a packaging to the exemption.

II. Regulatory Reinvention Initiative

In a March 4, 1995 memorandum, the President directed Federal agencies to review all agency regulations and eliminate or revise those that are outdated or in need of reform. RSPA issued a notice on April 4, 1995, (Docket HM–222; 60 FR 17049) requesting comments on regulatory reform and announced seven public meetings nationwide to identify obsolete and burdensome regulations which can be eliminated from the HMR and techniques to improve its customer services. Some of the commenters responding to the notice under Docket HM–222 identified the exemption and approval procedures contained in the HMR as areas in need of clarification and reform. Today's notice is consistent with the goals of the President to clarify and revise Federal agency regulations to relieve unnecessary regulatory burdens.

III. Request for Comments

Comments are invited with respect to all of the proposed changes. In particular, RSPA is interested in whether commenters believe the changes would make the process of applying for an exemption or approval simpler or more efficient, and whether paperwork burdens would be eased; whether the proposed provisions are clear; and how the rule would affect small businesses and other entities.

IV. Summary of Proposed Amendments

A. Exemptions

The exemption procedures at 49 CFR subpart B of part 107 would be reorganized to provide a framework that is more logically arranged than at present. The proposed rule sets forth application requirements for exemptions, exemption modifications, procedures for seeking party status to an exemption and renewing an exemption or a grant of party status. The proposed rule would establish three processing categories—routine, priority, and emergency; the standards to qualify for priority or emergency processing; and the procedures and review criteria to be applied in each category. Next, the notice would set forth the powers of the Associate Administrator for Hazardous Materials Safety (Associate Administrator) to modify, suspend, or terminate an exemption or grant of party status; the standards to do so, and the procedures to be followed. Finally, this NPRM proposes procedures for reconsideration of an exemption decision by the Associate Administrator and appeal of that decision to the RSPA Administrator.

Substantively, the current regulations would be revised in several respects. Summaries of the more significant proposed revisions follow.

In this notice, timely filing requirements under the subpart would be clarified by standardizing the ''filing'' date as the date a submission is received at the specified RSPA office. Also, the required contents of an application would be expanded in several respects. The applicant would need to list HMR exemptions, approvals, and other authorizations previously or currently held that are related to the subject of the application and known to the applicant; this information would facilitate prompt processing of the application by expediting review of other relevant information. In addition, the applicant would be required to identify each manufacturing facility that would be operating under the requested exemption; this information would facilitate later RSPA inspections. A foreign applicant, after designating a domestic agent for service, would be required to consent in writing to personal jurisdiction with respect to all matters under the Federal hazmat law related to the exemption. The proposed rule also provides that an applicant's failure to respond to a request by RSPA for additional information within 30 days would result automatically in application denial. Paperwork burdens would be reduced by requiring only duplicate, rather than triplicate, application submissions.

In the proposal, the Associate Administrator explicitly would be authorized to consider evidence of an applicant's capability and integrity in deciding on an application. A pending or completed enforcement action for HMR violations could be considered, to the extent the Associate Administrator found it to be relevant. If an enforcement action were only pending, and a final finding of violation had not been made, that would be considered in assessing the weight the enforcement action should be given in deciding on an application.

The standards for routine and emergency application processing would be clarified, and a third category, that of priority processing, would be created. The rule would formalize, but not modify, the way in which exemption applications now are

routinely processed. When an application is determined to be complete, it is published in the **Federal Register** and public comment is solicited. The application then is considered under prescribed standards, including demonstration of an equivalent level of safety and whether the applicant has the capability and integrity necessary to operate under the exemption.

Similarly, the proposed rule would not change how an emergency exemption application is processed, but would clarify and slightly modify the standards for qualifying for emergency processing. The standard would be expanded to include likelihood of significant injury to persons, rather than only loss of life. Also, the proposed rule would clarify that a likelihood of significant economic harm, standing alone, does not entitle an applicant to emergency processing; whether the prospect of significant economic loss constitutes an emergency would be a matter for the Associate Administrator's judgment. For example, the Associate Administrator may find that a carrier's loss of transportation revenue or failure to gain new revenue, or a shipper's failure immediately to gain a new market, would not justify emergency processing.

Specifically, the rule would add a provision that the Associate Administrator may determine a risk of economic loss to the applicant, or to another person engaged in the hazmat activity in cooperation with the applicant, not to be the basis for a finding of emergency if the applicant or another person could have filed for routine application processing in a timely manner. If an application qualifies for emergency processing, it is not published in the **Federal Register**, subject to public comment, or held strictly to the submission requirements for routine processing. Further, recognizing that urgency may not permit the fullest deliberation, the standard for granting the exemption is simply whether doing so is in the public interest, in light of the standards that apply to an application processed routinely. Through the proposed provision, RSPA seeks to ensure that emergency processing, which affords less public review and a risk of reduced agency deliberation, is used only in the case of a risk of significant economic loss where urgency is required to avert the loss and the need for urgency could not have been avoided.

The NPRM would create a third processing category, priority processing, for applications that do not qualify for emergency processing, but merit more expeditious consideration than that routinely accorded. An application that qualifies for priority processing, unlike one processed on an emergency basis, would be subject to public comment and the full degree of deliberation given to applications processed routinely. The priority designation merely would authorize RSPA to deviate from its ''first in, first out'' policy and consider the application ahead of those received earlier. Applications qualifying for priority processing would be those of governmental bodies when deemed by the Associate Administrator to be in the public interest, and those in which expeditious processing would be necessary to avoid significant economic loss. As in the case of emergency processing, if the significant economic loss were that of the applicant or another person engaged with the applicant in the hazmat activity, the need for the exemption may not have been foreseeable at a time when an application could have been processed routinely. Otherwise, the Associate Administrator would have the discretion to find that the application does not qualify for priority processing.

The proposed rule would clarify the standards for exemption modification, suspension, and termination and give the Associate Administrator more flexibility as to which of the three remedies is appropriate in a given situation. Presently, the Associate Administrator may modify or suspend an exemption if its provisions are violated, or if new information suggests that the activity under the exemption creates a risk to life or property. The Associate Administrator may terminate an exemption if it is no longer consistent with the public interest, is no longer necessary due to a change in the regulations, or was granted on the basis of false or misleading information. The ''public interest'' criterion encompasses all grounds on which the Associate Administrator may find it justified to terminate an exemption, but is vague. Further, the sharp distinction the existing regulation draws between those conditions that justify modifying or suspending an exemption, and those that justify terminating it, handicap the Associate Administrator in taking the action that a particular circumstance recommends—for example, requiring the termination of an exemption when modification might suffice.

The proposed rule would authorize modification whenever necessary to conform an exemption to changed statute or regulation, or other circumstances. It would authorize modification, suspension, or termination: (1) Whenever, because of a change in circumstances, the exemption no longer would be granted if applied for; (2) if it was granted on the basis of inaccurate or incomplete information; or (3) if the holder violates the exemption in a way that demonstrates insufficient competence or integrity to act under the exemption. In addition, any exemption granted on the basis of an application that the Associate Administrator finds was deliberately inaccurate or incomplete would be subject to modification, suspension, or termination, even where the exemption would have been granted absent the inaccuracy or incompleteness.

Finally, the proposed rule would formalize procedures for requesting reconsideration of an exemption decision by the Associate Administrator and appealing the Associate Administrator's decision to the RSPA Administrator. During the pendency of a request for reconsideration or an appeal, the Associate Administrator or the Administrator, respectively, on a finding of risk to persons or property, could deem the modification, suspension, or termination effective for a period of up to 90 days. Otherwise the exemption, if current, would remain in effect until the decision.

B. Approvals, Registrations, Reports

The proposed rule establishes a framework for processing approval requests similar to that for exemption applications. It also describes procedures for filing registrations and reports with RSPA.

The proposed rule specifies minimum contents of an application for approval to be filed with RSPA, identifies the RSPA office to which the filing would be directed, and sets forth procedures by which an application for approval would be processed.

Next, the proposed rule sets forth standards and procedures for modifying, suspending and terminating approvals. The proposed standards are similar to the procedures for modifying, suspending and terminating exemptions. Modification would be authorized broadly to conform an approval to changed law or circumstances. Modification, suspension and termination all would be available if new information indicates that the approval would not be granted if now applied for; if the holder has demonstrated insufficient capability or integrity to perform the authorized activity; or if the application contained deliberately inaccurate or incomplete information. The holder would be allowed an opportunity to respond to the proposed action before it becomes final; however, where necessary to avert

a risk of harm to persons or property, the Associate Administrator could declare the modification, suspension or termination effective pending the holder's response and any subsequent reconsideration, for up to 90 days.

Finally, the proposed rule would provide for reconsideration of the Associate Administrator's decision on granting, modifying, suspending or terminating an approval, and for appeal of that decision to the Administrator.

C. Miscellaneous Amendments

The proposed rule would amend a number of procedural provisions of 49 CFR parts 107, 171, 172, 173, and 178. Amendments would be made for clarity in §§ 107.202, 107.203, 107.205, 107.211, 107.213 (new section), 107.217, 107.223, 107.227, 107.331, 171.1, 171.2, 171.8, 172.302, 173.22a, and 178.3. Requirements for exemption holders now found at Appendix B to subpart B of part 107, would be moved to §§ 172.302(c) and 173.22a(c).

Several provisions governing preemption determinations would be revised. The NPRM would modify § 107.205(a) to delete the requirement that the applicant notify the affected State, local, or tribal government that it has 45 days in which to comment on the application for preemption. Because the date on which the government body receives the applicant's notice is not fixed to the date on which the application is published in the **Federal Register**, this specification is somewhat arbitrary. The State, local, or tribal government would continue to have, ordinarily, 45 days in which to comment, but this time frame would simply be specified in the **Federal Register** notice setting forth the application.

Section 107.209(b) would be deleted. The Associate Administrator's authority to issue a preemption determination on his or her own initiative was eliminated by the Hazardous Materials Transportation Uniform Safety Act, Public Law 101–615, § 13 (Nov. 16, 1990).

Sections 107.209(d) and 107.221(d) would be amended to specify more concretely who would be given personal notice of a preemption or waiver of preemption determination. Presently, the Associate Administrator notifies each person ''readily identifiable * * * as one who is affected by the determination.'' Appeal rights of parties depend on timely receipt of the Associate Administrator's preemption decision. The present standard is vague and could prompt a challenge by a person who did not receive notice of a decision. The proposed rule limits personal notice of the decision to a specified group of persons: those who commented substantially on the matter (this would exclude, for instance, those who merely submitted form letters favoring or opposing preemption) and those who requested notice.

Section 107.305(b) would be clarified in two regards. Additional language would clarify the right of a regulated party to examine an inspector's credentials, but prohibit that party from reproducing them. In addition, it would make explicit the inspector's authority to employ reasonable means of information gathering and documentation in performing an inspection. These means include, but are not limited to, interviewing and taking statements from representatives of the inspected person, photocopying, photographing, and taking audio and video recordings.

An added provision of § 107.305(b) would authorize the Director, Office of Hazardous Materials Enforcement (OHME), or his delegated representative, to issue a subpoena for the production of documentary or other tangible evidence. This authority is vested in the Administrator by § 107.13(a) and would be delegated by the proposed rule from the Administrator to the OHME Director. A person on whom a subpoena is served would have the opportunity to apply to the RSPA Chief Counsel within 10 days of service to modify or quash the subpoena.

A new § 171.2(h) explicitly would prohibit creating or altering an exemption, approval, registration, or other official document to fraudulently indicate authority to offer or transport hazardous materials or manufacture packagings for hazardous materials. Similarly, offering a hazardous material for transportation or transporting a hazardous material in commerce, or representing, marking, certifying, or selling a packaging, under a false or altered exemption, approval, registration, or similar document would be prohibited. Currently, 18 U.S.C. 1001 prescribes a criminal sanction for knowingly or willfully making or using a false document in a matter within the jurisdiction of a Federal agency. The proposed rule would create a separate civil sanction. Liability for a civil penalty would arise only when a violation is committed knowingly within the meaning of 49 U.S.C. 5123(a)(1); that is, when the person either knew or, in the exercise of reasonable care, should have known that the document was false or altered. Accordingly, for example, a carrier would not be subject to a civil penalty for transporting a hazardous material under authority of an exemption altered by a shipper, absent facts establishing the carrier's knowledge that the exemption was altered.

In addition, the proposed rule would amend § 178.3 by adding a new paragraph (d) to specifically prohibit anyone, other than the exemption holder, a person with party status to an exemption, or a third party tester, from certifying that a packaging meets the terms of an exemption. This provision is necessary to assure that packagings manufactured under the terms of an exemption are marked and certified only by those persons authorized to do so.

V. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This notice of proposed rulemaking is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not subject to review by the Office of Management and Budget. The notice is not significant according to the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

The proposed rule would not result in any additional costs to persons subject to the HMR, but would result in modest cost savings to a small number of them and to the agency. Because of the minimal economic impact of this rule, preparation of a regulatory impact analysis or regulatory evaluation is not warranted. This certification may be revised as a result of public comment.

B. Executive Order 12612

This action has been analyzed in accordance with the principles and criteria in Executive Order 12612 (''Federalism''). This proposed rulemaking has no substantial effects on States, local governments, or Indian tribes and does not impair their ability to impose their own procedures for obtaining an exemption or approval, or for registering and reporting. Therefore, preparation of a federalism assessment is not warranted.

C. Regulatory Flexibility Act

I certify that this notice of proposed rulemaking will not have a significant economic impact on a substantial number of small entities. This notice proposes to amend existing and add new procedural provisions to clarify existing practice. The amendments contained in this notice do not impose any new requirements on persons subject to the HMR; thus, there are no direct or indirect adverse economic

impacts for small units of government, businesses, or other organizations.

D. Paperwork Reduction Act

Under 49 U.S.C. 5108, the information management requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) do not apply to this proposed rule.

VI. List of Subjects

49 CFR Part 107

Administrative practice and procedure, Hazardous material transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labels, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 178

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Chapter I would be amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for Part 107 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

2. In § 107.3, definitions would be added in alphabetical order to read as follows:

§ 107.3 Definitions.

Accident means an event resulting in the unintended and unanticipated release of hazardous material.

Acting knowingly means acting or failing to act while:

(1) Having actual knowledge of the facts giving rise to the violation, or

(2) Having the knowledge that a reasonable person acting in the same circumstances and exercising due care would have had.

Administrator means the Administrator, Research and Special Programs Administration.

Applicant means the person in whose name an exemption, renewed or modified exemption, grant of party status to an exemption, approval, or registration is requested to be issued.

Application means a request under this subpart for an exemption, a renewal or modification of an exemption, a grant of party status to an exemption, an approval, or a registration.

* * * * *

Associate Administrator means the Associate Administrator for Hazardous Materials Safety.

* * * * *

Filed means received at the Research and Special Programs Administration office designated in the applicable provision or, if no office is specified, at the Office of Hazardous Materials Exemptions and Approvals (DHM–30), U.S. Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW, Washington DC, 20590–0001.

Holder means the person in whose name an exemption or approval has been issued.

* * * * *

Investigation includes investigations authorized under 49 U.S.C. 5121 and inspections authorized under 49 U.S.C. 5118 and 5121.

Manufacturing exemption means an exemption from compliance with requirements that otherwise must be met before representing, marking, certifying, selling or offering a packaging or container as meeting the requirements of this subchapter or subchapter B governing its use in the transportation in commerce of a hazardous material.

Party means a person, other than a holder, authorized to act under the terms of an exemption.

* * * * *

Registration means a written acknowledgement from the Associate Administrator that the registrant is performing a function for which registration is required under subchapter C. For purposes of this subpart, ''registration'' does not include registration under subpart F or G of this part.

Report means information, other than an application, registration or part thereof, required to be submitted to the Associate Administrator pursuant to subchapter C.

* * * * *

Shipper exemption means an exemption from compliance with requirements of this subchapter or subchapter C that otherwise must be met before offering a hazardous material for transportation or transporting a hazardous material in commerce.

* * * * *

3. In § 107.5, paragraph (a) would be revised to read as follows:

§ 107.5 Request for confidential treatment.

(a) If any person filing a document with the Associate Administrator claims that some or all the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552), is information referred to in 18 U.S.C. 1905, or is otherwise exempt by law from public disclosure, and if that person requests the Associate Administrator not to disclose the information, that person shall file, together with the document, a second copy of the document with the confidential information deleted. The person shall indicate each page of the original document that is confidential or contains confidential information by marking or stamping ''confidential'' on each page for which a claim of confidentiality is made, and may file a statement specifying the justification for the claim of confidentiality. If the person states that the information comes within the exception in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information, that person must include a statement as to why the information is privileged or confidential. If the person filing a document does not mark or stamp a document as confidential or submit a second copy of the document with the confidential information deleted, the Associate Administrator may assume that there is no objection to public disclosure of the document in its entirety.

* * * * *

4. Subpart B of part 107 would be revised to read as follows:

Subpart B—Exemptions

§ 107.101 Purpose and scope.

This subpart prescribes procedures for the issuance, modification and termination of exemptions from requirements of this subchapter, or subchapter C of this chapter.

§ 107.105 Application for exemption.

(a) Each application for an exemption or modification of an exemption must—

(1) Be submitted in duplicate to: Associate Administrator for Hazardous Materials Safety, U.S. Department of Transportation, Washington, DC 20590–0001. Attention: Exemptions, DHM–31;

(2) State the name, street and mailing addresses, and telephone number of the applicant; if the applicant is not an individual, state the name of an individual designated as an agent of the applicant for all purposes related to the application;

(3) For a manufacturing exemption, state the name and street address of each of the applicant's or contractor's facilities where manufacturing under the exemption will occur;

(4) If the applicant is not a resident of the United States, contain a designation of agent for service in accordance with § 107.7, and a statement that the applicant consents to personal jurisdiction in the United States for purposes of the Federal hazardous material transportation law related to the exemption;

(5) Cite the regulation from which the applicant seeks relief, including the publication year of the Code of Federal Regulations volume from which the citation is taken;

(6) If known by the applicant, list identifying numbers of all exemptions, approvals and registrations previously or currently held by the applicant under this chapter that are related to the subject matter of the application;

(7) Specify the proposed mode(s) of transportation;

(8) Describe in detail the proposed exemption (e.g., alternative packaging, test, procedure or activity). Including, as appropriate, written descriptions, drawings, flow charts, plans and other supporting documents;

(9) Specify the proposed duration or schedule of events for which the exemption is sought;

(10) State why the applicant wishes to be relieved from compliance with the specified regulations and, if the exemption is requested for a fixed period, how compliance will be achieved at the end of that period;

(11) If the applicant seeks expedited processing under § 107.115 or § 107.117, set forth the supporting facts and grounds;

(12) Identify and describe the hazardous materials planned for transportation under the exemption. Provide the chemical name, common name, hazard class, identification number, packing group, form, quantity, properties, and characteristics of hazardous material to be offered or transported in conjunction with the exemption, including composition and percentage (specified by volume or weight) of each chemical, if a solution or mixture;

(13) List each packaging, including specification or exemption number, as applicable, to be used in conjunction with the requested exemption;

(14) For alternative packagings, document quality assurance controls necessary to provide safe performance, including package design, manufacture, performance test criteria, in-service performance and service life limitations;

(15) Include information describing all relevant shipping and accident experience of which the applicant is aware that relates to the application;

(16) Identify any increased risk to safety or property that may result if the exemption is granted, and specify the measures that the applicant considers necessary or appropriate to address that risk;

(17) Substantiate, with applicable analyses, data or test results, that the proposed alternative will achieve a level of safety that:

(i) Is at least equal to that required by the regulation from which the exemption is sought, or

(ii) If the regulations do not establish a level of safety, is consistent with the public interest and adequately will protect against the risks to life and property inherent in the transportation of hazardous material in commerce; and

(18) For an exemption involving a hazardous material, packaging material, packaging design or technology where direct comparison cannot be made to an existing standard in subchapter C, provide an analysis that:

(i) identifies each hazard associated with the proposed activity,

(ii) identifies each potential failure mode and the probability of its occurrence, and

(iii) describe how the risk associated with each hazard and failure mode is controlled for life of a packaging or duration of an activity to a level comparable to that provided by the regulation and is consistent with the public interest.

(b) Unless expedited processing under § 107.115 or § 107.117 is requested and granted, applications are processed in the order in which they are filed. For timely consideration, an application should be submitted at least 180 days before the requested effective date.

(c) To request confidential treatment for information contained in the application, the applicant must comply with § 107.5(a).

§ 107.107 Application for party status.

(a) Any person eligible to apply for an exemption may apply to be made party to an application or an existing exemption, other than a manufacture, mark, and sell exemption.

(b) Each application filed under this section must—

(1) Be submitted in duplicate to: Associate Administrator for Hazardous Materials Safety, U.S. Department of Transportation, Washington, DC 20590–0001. Attention: Exemptions, DHM–31;

(2) Identify by number the exemption application or exemption to which the applicant seeks to become a party;

(3) State the name, address and telephone number of the applicant; if the applicant is not an individual, state the name of an individual designated as the applicant's agent for all purposes related to the application; and

(4) If the applicant is not a resident of the United States, provide a designation of agent for service in accordance with § 107.7, and a statement that the applicant consents to personal jurisdiction in the United States for purposes of the Federal hazardous material transportation law related to the exemption.

(c) The Associate Administrator grants party status to an applicant on finding that—

(1) The applicant is eligible to apply for the exemption;

(2) The application or exemption to which the applicant seeks to become a party concerns a continuing matter; and

(3) Granting party status does not compromise information qualified for confidential treatment under § 107.5.

(d) A party to an exemption is subject to all terms of that exemption, including the expiration date. If a party to an exemption wishes to renew party status, the exemption renewal procedures set forth in § 107.109 apply.

§ 107.109 Application for renewal.

(a) Each application for renewal of an exemption must—

(1) Be submitted in duplicate to: Associate Administrator for Hazardous Materials Safety, U.S. Department of Transportation, Washington, DC 20590–0001. Attention: Exemptions, DHM–31;

(2) Identify by number the exemption for which renewal is requested;

(3) State the name, address, and telephone number of the applicant; if the applicant is not an individual, state the name of an individual designated as an agent of the applicant for all purposes related to the application;

(4) Include either a certification by the applicant that the original application, as it may have been updated by any application for renewal, remains accurate and complete; or an amendment to the previously submitted application as is necessary to update and assure the accuracy and completeness of the application, with certification by the applicant that the application as amended is accurate and complete; and

(5) Include a statement describing all relevant shipping and accident experience of which the applicant is aware in connection with the exemption since its issuance or most recent renewal. If aware of no accidents, the applicant shall so certify. The statement must indicate the approximate number of shipments made or packages shipped, as the case may be, and the number of shipments or packages involved in any loss of contents, including loss by venting other than as authorized in subchapter C.

(b) If at least 60 days before an existing exemption expires the holder files an application for renewal that is complete and conforms to the requirements of this section, the exemption will not expire until final administrative action on the application for renewal has been taken.

§ 107.111 Withdrawal.

An application may be withdrawn at any time before a decision to grant or deny it is made. Withdrawal of an application does not authorize the removal of any related records from the RSPA dockets or files.

§ 107.113 Application processing.

(a) The Associate Administrator reviews an application to determine if it is complete and conforms with the requirements of this subpart. This determination usually is made within 30 days of receipt of an application for exemption or modification of exemption and within 15 days of receipt of an application for renewal of an exemption. If an application is determined to be incomplete, the applicant is informed of the reasons.

(b) An application, other than a renewal or emergency exemption application, that is determined to be complete is docketed. Notice of the application is published in the **Federal Register** and an opportunity for public comment is provided. All comments received during the comment period are considered before final action is taken on the application.

(c) No public hearing or other formal proceeding is required under this subpart before the disposition of an application. Unless expedited processing under § 107.115 or § 107.117 is requested and granted, applications are processed in the order in which they are filed.

(d) At any time during the processing of an application, the Associate Administrator may request additional information from the applicant. If the applicant does not respond to a written request for additional information within 30 days of the date the request was received, the application is deemed incomplete and is denied.

(e) The Associate Administrator may grant or deny an application, in whole or in part. In the Associate Administrator's discretion, an application may be granted subject to conditions that are appropriate to protect health, safety or property.

(f) The Associate Administrator may grant the application on finding that—

(1) The application complies with this subpart;

(2) The application demonstrates that the proposed alternative will achieve a level of safety that:

(i) Is at least equal to that required by the regulation(s) from which the exemption is sought, or

(ii) If the regulations do not establish a level of safety, is consistent with the public interest and adequately will protect against the risks to life and property inherent in the transportation of hazardous materials in commerce;

(3) The application states all material facts, and contains no materially false or materially misleading statement;

(4) The applicant meets the qualifications required by applicable regulations; and

(5) The applicant demonstrates the level of capability and integrity required to conduct the activity authorized by the exemption. A pending or completed enforcement action may be considered evidence of insufficient competence or integrity.

(g) The applicant is notified in writing whether the application is granted or denied. A denial contains a brief statement of reasons.

(h) An exemption and any renewal thereof terminates according to its terms or, if not otherwise specified, two years after the date of issuance. A grant of party status to an exemption, unless otherwise stated, terminates on the date that the exemption terminates.

(i) The Associate Administrator, on determining that an application concerns a matter of general applicability and future effect and should be the subject of rulemaking, may initiate rulemaking under part 106 of this chapter in addition to or instead of acting on the application.

(j) The Associate Administrator publishes in the **Federal Register** a list of all exemption and party status grants, denials and modifications and all applications withdrawn under this section.

§ 107.115 Priority processing.

(a) An application is granted priority processing if the Associate Administrator, on the basis of the application and any inquiry undertaken, finds that—

(1) If the applicant is a governmental body, priority processing is in the public interest;

(2) If the applicant is not a governmental body:

(i) Priority processing is necessary to prevent significant economic loss; and

(ii) The significant economic loss could not be prevented were the application processed routinely.

(b) Where the risk of significant economic loss is to the applicant, or to a party in a contractual relationship to the applicant with respect to the activity to be undertaken, the Associate Administrator may deny priority processing if timely application could have been made.

(c) A request for priority processing on the basis of potential economic loss must reasonably describe and estimate the potential loss.

(d) An application given priority processing receives the same level of substantive review as one processed routinely.

(e) A decision to deny priority processing may not be the subject of a request for reconsideration under § 107.123.

§ 107.117 Emergency processing.

(a) An application is granted emergency processing if the Associate Administrator, on the basis of the application and any inquiry undertaken, finds that—

(1) Emergency processing is necessary to prevent significant injury to persons or property (other than the hazardous material to be transported) that could not be prevented if the application were processed on a routine or priority basis; or

(2) Emergency processing is necessary to prevent significant economic loss that could not be prevented if the application were processed on a routine or priority basis.

(b) Where the significant economic loss is to the applicant, or to a party in a contractual relationship to the applicant with respect to the activity to be undertaken, the Associate Administrator may deny emergency processing if timely application could have been made.

(c) A request for emergency processing on the basis of potential economic loss must reasonably describe and estimate the potential loss.

(d) An application submitted under this section must comply with § 107.105(a)(17) and include such supporting information specified in § 107.105(a)(2) through (a)(16) as the receiving Department of Transportation official deems necessary to process the application. An application on an

emergency basis must be submitted through the appropriate Department of Transportation official, as follows:

(1) *Certificate Holding Aircraft Operators:* The Federal Aviation Administration Civil Aviation Security Office that serves the place where the flight(s) will originate or that is responsible for the operators' overall aviation security program.

(2) *Noncertificate Holding Aircraft Operators (Operators Operating Under 14 CFR Part 91):* The Federal Aviation Administration Civil Aviation Security Office that serves the place where the flight(s) will originate. The nearest Civil Aviation Security Office may be located by calling the FAA Duty Officer, 202–863–5100 (any hour).

(3) *Motor Carriers:* Chief, Hazardous Materials Division, Office of Motor Carrier Field Operations, Federal Highway Administration, Department of Transportation, Washington, DC 20590–0001, 202–366–4415 (day); 202–267–2100 (night).

(4) *Rail Carriers:* Associate Administrator for Safety, Federal Railroad Administration, Department of Transportation, Washington, DC 20590–0001, 202–366–9178 or 366–0488 (day); 202–267–2100 (night).

(5) *Water Carriers:* Chief, Hazardous Materials Standards Branch, Operating and Environmental Standards Division, United States Coast Guard, Washington, DC 20593–0001, 202–267–1577 (day); 202–267–2100 (night).

(e) On receipt of all information necessary to process the application, the receiving Department of Transportation official transmits to the Associate Administrator, by the most rapid available means of communication, an evaluation as to whether an emergency exists under § 107.117(a) and, if appropriate, recommendations as to the conditions to be included in the exemption. If the Associate Administrator determines that an emergency exists under § 107.117(a) and that, with reference to the criteria of § 107.113(f), granting of the application is in the public interest, the Associate Administrator grants the application subject to such terms as necessary and immediately notifies the applicant. If the Associate Administrator determines that an emergency does not exist or that granting of the application is not in the public interest, the applicant immediately is so notified.

(f) An emergency exemption is to be limited in scope and duration to that which is necessary to address the circumstances which constitute the emergency.

(g) A determination that an emergency does not exist may not be the subject of a request for reconsideration under § 107.123.

(h) Within 90 days following issuance of an emergency exemption, a notice of issuance, with a statement of the basis for the finding of emergency and the scope and duration of the exemption, is published in the **Federal Register**.

§ 107.121 Modification, suspension or termination of exemption or grant of party status.

(a) The Associate Administrator may modify an exemption or grant of party status on finding that—

(1) Modification is necessary so that an exemption reflects current statutes and regulations; or

(2) Modification is required by changed circumstances to meet the standards of § 107.113(f).

(b) The Associate Administrator may modify, suspend or terminate an exemption or grant of party status, as appropriate, on finding that-

(1) Because of changed circumstances, the exemption or party status would not be granted if application were made now;

(2) The application contained inaccurate or incomplete information, and the exemption or party status would not have been granted had the application been accurate and complete;

(3) The application contained deliberately inaccurate or incomplete information; or

(4) The holder or party knowingly has violated the terms of the exemption or an applicable requirement of this chapter, in a manner demonstrating insufficient capability or integrity to conduct the activity authorized by the exemption.

(c) Before an exemption or grant of party status is modified, suspended or terminated, the Associate Administrator notifies the holder or party in writing of the proposed action and the reasons therefor, and provides an opportunity to show cause why the proposed action should not be taken.

(1) The holder or party may file a written response with the Associate Administrator within 30 days of receipt of notice of the proposed action.

(2) After considering the holder's or party's written response to the notice, or after 30 days have passed without response since receipt of the notice, the Associate Administrator notifies the holder in writing of the final decision. Modification, suspension or termination shall be accompanied by a brief statement of grounds.

§ 107.123 Reconsideration.

(a) An applicant, a holder or a party may request that the Associate Administrator reconsider a decision under § 107.113(g), § 107.117(e) or § 107.121(c). The request must—

(1) Be in writing and filed within 20 days of receipt of the decision;

(2) State in detail all alleged errors of fact and law;

(3) Enclose all documentation in support of the request to reconsider, with a justification for failure to provide the documentation previously; and

(4) State in detail the modification of the final decision sought.

(b) The Associate Administrator, if necessary to avoid a risk of significant harm to persons or property, may in the notification declare the proposed action immediately effective, for a maximum of 90 days from the date of the holder's or party's receipt of the notice.

(c) The Associate Administrator considers newly submitted information on a showing that the information could not reasonably have been submitted during application processing.

(d) The Associate Administrator grants or denies, in whole or in part, the relief requested and informs the requesting person in writing of the decision.

§ 107.125 Appeal.

(a) A person who requested reconsideration under § 107.123 may appeal to the Administrator the Associate Administrator's decision on the request. The appeal must-

(1) Be in writing and filed within 30 days of receipt of the Associate Administrator's decision on reconsideration;

(2) State in detail all alleged errors of fact and law;

(3) Enclose all documentation in support of the appeal, with a justification for failure to provide the documentation previously; and

(4) State in detail the modification of the final decision sought.

(b) The Administrator, if necessary to avoid a risk of significant harm to persons or property, may declare the Associate Administrator's action immediately effective pending a decision on appeal, for a maximum of 90 days from the date of the holder's or party's receipt of the decision.

(c) The Administrator considers newly submitted information on a showing that the information could not reasonably have been submitted during application processing or reconsideration.

(d) The Administrator grants or denies, in whole or in part, the relief requested and informs the appellant in writing of the decision. The Administrator's decision is the final administrative action.

§ 107.127 Availability of documents for public inspection.

(a) Documents related to an application under this subpart, including the application itself, are available for public inspection, except as specified in paragraph (b) of this section, at the Office of the Associate Administrator for Hazardous Materials Safety, Dockets Unit (DHM–30), U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590 0001. Copies of available documents may be obtained as provided in part 7 of this title.

(b) Documents available for inspection do not include materials determined to be withheld from public disclosure under § 107.5 and in accordance with the applicable provisions of section 552(b) of title 5, United States Code, and part 7 of this title.

5. In § 107.202, paragraph (a), introductory text, would be revised to read as follows:

§ 107.202 Standards for determining preemption.

(a) Except as provided in § 107.221 and unless otherwise authorized by Federal law, any requirement of a State or political subdivision thereof or an Indian tribe, that concerns one of the following subjects and that is not substantively the same as any provision of the Federal hazardous material transportation law, this subchapter or subchapter C that concerns that subject, is preempted:

* * * * *

§ 107.202 [Amended]

6. In § 107.202(b)(3), the wording ''49 U.S.C. 5125(b) or(c)'' would be revised to read ''49 U.S.C. 5125(c).''

§ 107.205 [Amended]

7. In § 107.205, in paragraph (a), at the end of the first sentence, the wording ''within 45 days'' would be removed.

8. In addition, in § 107.205, paragraph (b) would be revised to read as follows:

§ 107.205 Notice.

* * * * *

(b) The Associate Administrator may publish notice of an application in the **Federal Register** and may notify in writing any person readily identifiable as affected by the ruling.

* * * * *

9. In § 107.209, paragraph (b) would be removed, paragraphs (c), (d) and (e) would be redesignated as paragraphs (b), (c) and (d), respectively, and newly designated paragraph (c) would be revised to read as follows:

§ 107.209 Determination.

* * * * *

(c) The Associate Administrator provides a copy of the determination to the applicant and to any other person who substantially participated in the proceeding or requested in comments to the docket to be notified of the determination. A copy of each determination is placed on file in the public docket. The Associate Administrator may publish the determination or notice of the determination in the **Federal Register**.

* * * * *

10. In § 107.211, in paragraph (a), the second sentence would be revised to read as follows:

§ 107.211 Petition for reconsideration.

(a) * * * The petition must be filed within 20 days of publication of the determination in the **Federal Register**.

* * * * *

11. A new § 107.213 would be added to read as follows:

§ 107.213 Judicial review.

A party to a proceeding under § 107.203(a) may seek review by the appropriate district court of the United States of a decision of the Administrator by filing a petition with the court within 60 days after the Administrator's decision becomes final.

12. In § 107.217, paragraph (d) would be revised to read as follows:

§ 107.217 Notice.

* * * * *

(d) The Associate Administrator may notify any other persons who may be affected by the ruling.

* * * * *

13. In Section 107.221, paragraph (a), (b), introductory text, (c) through (e) would be revised to read as follows:

§ 107.221 Determination.

(a) After considering the application and other relevant information received or obtained during the proceeding, the Associate Administrator issues a determination.

(b) The Associate Administrator may issue a waiver of preemption only on finding that the State or political subdivision or Indian tribe requirement affords the public a level of safety at least equal to that afforded by the requirements of the Federal hazardous material transportation law or the regulations issued thereunder and does not unreasonably burden commerce. In determining if the State or political subdivision or Indian tribe requirement unreasonably burdens commerce, the Associate Administrator considers:

* * * * *

(c) The determination includes a written statement setting forth relevant facts and legal bases and providing that any person aggrieved by the determination may file a petition for reconsideration with the Associate Administrator.

(d) The Associate Administrator provides a copy of the determination to the applicant and to any other person who substantially participated in the proceeding or requested in comments to the docket to be notified of the determination. A copy of the determination is placed on file in the public docket. The Associate Administrator may publish the determination or notice of the determination in the **Federal Register**.

(e) A determination under this section constitutes an administrative finding of whether a particular requirement of a State or political subdivision or Indian tribe is preempted under the Federal hazardous material transportation law or any regulation issued thereunder, or whether preemption is waived.

14. In § 107.223, paragraph (a) would be revised to read as follows:

§ 107.223 Petition for reconsideration.

(a) Any person aggrieved by a determination under § 107.221 may file a petition for reconsideration with the Associate Administrator. The petition must be filed within 20 days of publication of the order in the **Federal Register**.

* * * * *

§ 107.227 [Amended]

15. In § 107.227, the wording ''§ 107.203(a) or'' would be removed.

§ 107.299 [Removed]

16. Section 107.299 would be removed.

17. In § 107.305, paragraph (b) would be revised to read as follows:

§ 107.305 Investigations.

* * * * *

(b) *Investigators.* Investigations under 49 U.S.C. 5121(a) are conducted by Hazardous Materials Safety personnel duly authorized for that purpose by the Associate Administrator. Inspections under 49 U.S.C. 5121(c) are conducted by Hazardous Materials Enforcement Specialists whom the Associate Administrator has designated for that purpose.

(1) An inspector will, on request, present his or her credentials for examination, but the credentials may not be reproduced.

(2) An inspector may administer oaths and receive affirmations in any matter under investigation by the Associate

Administrator for Hazardous Materials Safety. An inspector may gather information by reasonable means including, but not limited to, interviews, statements, photocopying, photography, and video- and audiorecording.

(3) On concurrence of the Director, Office of Hazardous Materials Enforcement, an inspector may issue a subpoena for the production of documentary or other tangible evidence if, on the basis of information available to the inspector, the documents and evidence materially will advance a determination of compliance with this subchapter or subchapter C. Service of a subpoena shall be in accordance with § 107.13(c) and (d). A person to whom a subpoena is directed may seek review of the subpoena by applying to the Chief Counsel in accordance with § 107.13(h). A subpoena issued under this paragraph may be enforced in accordance with § 107.13(i).

* * * * *

18. In § 107.331, the introductory paragraph and paragraph (d) would be revised to read as follows:

§ 107.331 Assessment considerations.

After finding a knowing violation under this subpart, the Chief Counsel assesses a civil penalty taking the following into account:

* * * * *

(d) The respondent's prior violations;

* * * * *

19. A new subpart H of part 107 would be added to read as follows:

Subpart H—Approvals, Registrations and Submissions

§ 107.701 Purpose and scope.

(a) This subpart prescribes procedures for the issuance, modification and termination of approvals, and the submission of registrations and reports, as required by this chapter.

(b) The requirements of this subpart are in addition to any requirements in this chapter applicable to a specific approval, registration or report. If compliance with both a specific requirement and a requirement of this subpart is not possible, the specific requirement applies.

(c) Registration under subpart F or G of this part is not subject to the provisions of this subpart.

§ 107.705 Registration and reporting.

(a) Each registration or report under this section must be filed with the Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street SW, Washington, DC 20590–0001, Attention: Approvals, DHM–32, and contain, in order—

(1) A citation to the section and, if applicable, subsection of the chapter under which the registration or report is made;

(2) If the report is required by an approval, a registration or an exemption, a citation to the approval, registration or exemption number;

(3) The name, address, and telephone number of the person on whose behalf the registration or report is made and, if different, the person making the registration or report;

(4) If the person on whose behalf the registration or report is made is not a resident of the United States, a designation of agent for service in accordance with § 107.7; and

(5) A description of the activity for which the registration or report is required.

(b) If the Associate Administrator determines that the registration or report does not comply with applicable requirements, the registration or reporting party shall make further submissions as the Associate Administrator deems necessary for compliance.

(c) To request confidential treatment for information contained in the registration or report, the applicant must comply with § 107.5(a).

§ 107.707 Applications.

(a) Each application under this section must be filed with the Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590–0001, Attention: Approvals, DHM–32 and contain the following, in order—

(1) A citation to the section and, if applicable, subsection of the chapter under which the approval is sought;

(2) If an application for renewal or modification, a citation to the existing approval;

(3) The name, address, and telephone number of—

(i) The applicant;

(ii) If different, the person filing the application; and

(iii) For an applicant that is not an individual, an individual designated as an agent of the applicant for all purposes related to the application;

(4) If the applicant is not a resident of the United States, a designation of agent for service in accordance with § 107.7, and a statement that the applicant consents to personal jurisdiction in the United States for all purposes under the Federal hazardous material transportation law related to the activity for which the approval is required;

(5) A description of the activity for which the approval is required; and

(6) A copy of each document from an entity other than the Office of Hazardous Materials Safety required under the section cited at § 107.707(a)(1) as a prerequisite to the approval.

(b) Each application under this section must contain the following, in order:

(1) The proposed duration of the approval;

(2) The transport mode or modes affected, as applicable;

(3) A full explanation, including all relevant information and documentation, as to why the applicant qualifies for the approval under applicable criteria, and why the approval otherwise is in accordance with law;

(4) All relevant shipping and accident experience;

(5) Identify any increased risk to safety or property that may result if the approval is granted, and specify the measures that the applicant considers necessary or appropriate to address that risk; and

(6) Substantiate, with applicable analyses, data or test results, that the proposed alternative will achieve a level of safety that is at least equal to that required by the regulation.

(c) For those approvals with an expiration date, each application for renewal or modification shall be filed in the same manner as an original application. If a complete and conforming renewal application is filed at least 60 days before the expiration date of an approval, the applicant, on written request, shall be issued one or more written extensions to permit operation under the terms of the expired approval until a final decision on the application for renewal has been made. Operation under an expired approval is prohibited absent a written extension. This paragraph does not limit the authority of the Associate Administrator to modify, suspend or terminate an approval under § 107.713.

(d) To request confidential treatment for information contained in the application, the applicant must comply with § 107.5(a).

§ 107.709 Application processing.

(a) No public hearing or other formal proceeding is required under this subpart before the disposition of an application.

(b) At any time during the processing of an application, the Associate Administrator may request additional information from the applicant. If the

applicant does not respond to a written request for additional information within 30 days of the date the request was received, the application will be deemed incomplete and denied.

(c) The Associate Administrator may grant or deny an application, in whole or in part. At the Associate Administrator's discretion, an application may be granted subject to conditions appropriate to protect health, safety and property.

(d) The Associate Administrator may deny the application if—

(1) The application does not comply with this subpart;

(2) The application contains inadequate justification, or otherwise does not meet the criteria set forth in the section or subsection under which the approval is sought;

(3) The application contains a materially false or materially misleading statement, or fails to state a material fact;

(4) The applicant does not demonstrate the qualifications set forth in the applicable regulations; or

(5) The applicant does not demonstrate the level of capability and integrity required to perform the activity for which the application is filed. A pending or completed enforcement action may be considered evidence of insufficient capability or integrity.

(e) Unless otherwise specified in this chapter or by the Associate Administrator, an approval does not expire.

(f) The Associate Administrator notifies the applicant in writing of the decision on the application. A denial contains a brief statement of reasons.

§ 107.711 Withdrawal.

An application may be withdrawn at any time before a decision to grant or deny it is made. Withdrawal of an application does not authorize the removal of any related records from the RSPA dockets or files.

§ 107.713 Approval modification, suspension or termination.

(a) The Associate Administrator may modify an approval on finding that—

(1) Modification is necessary to conform an existing approval to relevant statutes and regulations as they may be amended from time to time; or

(2) Modification is required by changed circumstances to enable the approval to continue to meet the standards of § 107.709(d).

(b) The Associate Administrator may modify, suspend or terminate an approval, as appropriate, on finding that—

(1) Because of changed circumstances, the approval would not be granted if application were made now;

(2) The application contained inaccurate or incomplete information, and the approval would not have been granted had the application been accurate and complete;

(3) The application contained deliberately inaccurate or incomplete information; or

(4) The holder knowingly has violated the terms of the approval or an applicable requirement of this chapter, in a manner demonstrating insufficient capability or integrity to conduct the activity for which the approval is required.

(c) Before an approval is modified, suspended or terminated, the Associate Administrator notifies the holder in writing of the proposed action and the reasons for it, and provides an opportunity to show cause why the proposed action should not be taken.

(1) The holder may file a written response with the Associate Administrator within 30 days of receipt of notice of the proposed action.

(2) The Associate Administrator, if necessary to avoid a measurable risk of significant harm to persons or property, may in the notification declare the proposed action immediately effective, for a maximum of 90 days from the date of the holder's receipt of the notice.

(3) After considering the holder's written response to the notice, or after 30 days have passed without response from receipt of the notice, the Associate Administrator notifies the holder in writing of the final decision. Modification, suspension or termination shall be accompanied by a brief statement of grounds.

§ 107.715 Reconsideration.

(a) An applicant or a holder may request that the Associate Administrator reconsider a decision under § 107.709(f) or § 107.713(c). The request must:

(1) Be in writing and filed within 20 days of receipt of the decision;

(2) State in detail all alleged errors of fact and law;

(3) Enclose all documentation in support of the request to reconsider, with a justification for failure to provide the documentation previously; and

(4) State in detail the modification of the final decision sought.

(b) The Associate Administrator considers newly submitted information on a showing that the information could not reasonably have been submitted during application processing.

(c) The Associate Administrator grants or denies, in whole or in part, the relief requested and informs the requesting person in writing of the decision.

§ 107.717 Appeal.

(a) A person who requested reconsideration under § 107.715 may appeal to the Administrator the Associate Administrator's decision on the request. The appeal must:

(1) Be in writing and filed within 30 days of receipt of the Associate Administrator's decision on reconsideration;

(2) State in detail all alleged errors of fact and law;

(3) Enclose all documentation in support of the appeal, with a justification for failure to provide the documentation previously; and

(4) State in detail the modification of the final decision sought.

(b) The Administrator, if necessary to avoid a risk of significant harm to persons or property, may declare the Associate Administrator's action effective pending a decision on appeal, for a maximum of 90 days from the date of the holder's receipt of the decision.

(c) The Administrator considers newly submitted information on a showing that the information could not reasonably have been submitted during application processing or reconsideration.

(d) The Administrator grants or denies, in whole or in part, the relief requested and informs the appellant in writing of the decision on appeal. The Administrator's decision on appeal is the final administrative action.

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

20. The authority citation for part 171 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 171.1 [Amended]

21. In § 171.1, in the introductory text of paragraph (a), the wording ''in commerce'' would be added immediately following the wording ''materials'' and preceding ''by''.

22. Also in § 171.1, a new paragraph (d) would be added to read as follows:

§ 171.1 Purpose and scope.

* * * * *

(d) The use of terms and symbols prescribed in this subchapter for the stamping, marking, labeling, placarding and description of hazardous materials and packagings used in their transport.

23. In § 171.2, paragraphs (a), (b), (c) and (d) would be revised and a new paragraph (h) would be added to read as follows:

§ 171.2 General requirements.

(a) No person may offer or accept a hazardous material for transportation in commerce unless that person complies with subpart G of part 107 of this chapter, as applicable, and the hazardous material is properly classed, described, packaged, marked, labeled, and in condition for shipment as required or authorized by applicable requirements of this subchapter and of any exemption, approval or registration issued under subchapter A.

(b) No person may transport a hazardous material in commerce unless that person complies with subpart G of part 107 of this chapter, and the hazardous material is handled and transported in accordance with applicable requirements of this subchapter and of any exemption, approval or registration issued under subchapter A.

(c) No person may represent, mark, certify, sell, or offer a packaging or container as meeting the requirements of this subchapter or an exemption, approval or registration issued under subchapter A, governing its use in the transportation in commerce of a hazardous material, whether or not it is used or intended to be used for the transportation of a hazardous material, unless the packaging or container is manufactured, fabricated, marked, maintained, reconditioned, repaired and retested, as appropriate, in accordance with applicable requirements of this subchapter and of any exemption, approval or registration issued under subchapter A.

(d) The representations, markings, and certifications subject to the prohibitions of paragraph (c) of this section include:

(1) Specification identifications that include the letters ''DOT'' or ''UN'';

(2) Exemption, approval, and registration numbers that include the letters ''DOT''; and

(3) Test dates associated with specification, registration, approval, retest or exemption markings indicating compliance with a test or retest requirement of this subchapter, or an exemption, an approval or a registration issued under subchapter A.

* * * * *

(h) No person shall—

(1) Falsify or alter an exemption, approval, registration or other grant of authority issued under this subchapter or subchapter B of this chapter; or

(2) Offer a hazardous material for transportation or transport a hazardous material in commerce, or represent, mark, certify, or sell a packaging or container, under a false or altered exemption, approval, registration or other grant of authority issued under this subchapter or subchapter B of this chapter.

§ 171.3 [Amended]

24. In § 171.3, paragraph (c) and the Note would be removed, and paragraph (d) would be redesignated as paragraph (c).

25. In § 171.8, a definition of ''Approval'' would be added and the definition of ''Person'' would be revised to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Approval means a written authorization from the Associate Administrator for Hazardous Materials Safety to perform a function for which prior authorization by the Associate Administrator is required under Subchapter C.

* * * * *

Person means an individual, firm, copartnership, corporation, company, association, joint-stock association, including any trustee, receiver, assignee, or similar representative thereof; or government, Indian tribe, or agency or instrumentality of any government or Indian tribe when it offers hazardous material for transportation in commerce or transports hazardous material to further a commercial enterprise, but such term does not include:

(1) The United States Postal Service;

(2) For the purposes of 49 U.S.C. 5123 and 5124, any agency or instrumentality of the Federal Government.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

26. The authority citation for Part 172 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

27. In § 172.302, paragraph (c) would be revised to read as follows:

§ 172.302 General marking requirements for bulk packagings.

* * * * *

(c) *Exemption packagings.* The outside of each bulk package used under the terms of an exemption shall be plainly and durably marked ''DOT–E'' followed by the exemption number assigned, in letters at least two inches high on a contrasting background.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

28. The authority citation for part 173 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

29. In § 173.22a, a new paragraph (c) would be added to read as follows:

§ 173.22a Use of packagings authorized under exemptions.

* * * * *

(c) When an exemption issued to a shipper contains special carrier requirements, the shipper shall furnish a copy of the exemption to the carrier before or at the time a shipment is tendered.

PART 178—SPECIFICATIONS FOR PACKAGINGS

30. The authority citation for Part 178 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

31. In § 178.3, a new paragraph (d) would be added to read as follows:

§ 178.3 Marking of packagings.

* * * * *

(d) No person may mark or otherwise certify a packaging or container as meeting the requirements of a manufacturing exemption unless that person is the holder of or a party to that exemption, an agent of the holder or party for the purpose of marking or certification, or a third party tester.

Issued in Washington, DC, on September 8, 1995, under authority delegated in 49 CFR part 106.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 95–22816 Filed 9–13–95; 8:45 am]

BILLING CODE 4910–60–P

Notices

Federal Register

Vol. 60, No. 178

Thursday, September 14, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

September 8, 1995.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) Who will be required or asked to report; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–2, Jamie L. Whitten Bldg., Washington, DC 20250, (202) 690–2118.

Emergency

- Consolidated Farm Service Agency
  General Regulations Governing the Peanut Warehouse Storage Loan and Handler Operations

CCC–1006, 1028, 1028A, 1029, 1032, 1032–1, 1033, 1036, 1041–SE, 1041–VC, 1041–SW, 1004, 1023, 1025, 1057, ASCS–1013, CCC–1027, 1005
Farms; 260,013 responses; 54,118 hours
Gary Fountain (202) 720–9106

Larry K. Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 95–22818 Filed 9–13–95; 8:45 am]

BILLING CODE 3410–01–M

COMMISSION ON CIVIL RIGHTS

Amendment to Notice of Public Meeting of the New Jersey Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that the meeting site of the New Jersey Advisory Committee to the Commission as announced in the **Federal Register**, Vol 60, No. 157, Doc 95–20057, on August 15, 1995, has been amended to the Marriott Courtyard, 1000 Century Parkway, Mount Laurel, New Jersey 08054. (This amendment is change of location only.)

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Dr. Irene Hill-Smith, 609–468–5546, or Edward Darden, Acting Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 8, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–22867 Filed 9–11–95; 4:50 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

Masonic Medical Research Lab., et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 95–020. *Applicant:* Masonic Medical Research Lab., Utica, NY 13501–1787. *Instrument:* Xenon Flashlamp System, Model XF–10. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* See notice at 60 FR 19572, April 19, 1995. *Reasons:* The foreign instrument provides: (1) a high intensity (300J) UV source with a bandwidth of 340–360 nm and (2) an intensity-stepped power supply. *Advice Received From:* The National Institutes of Health, July 10, 1995.

Docket Number: 95–021. *Applicant:* Tulane University, New Orleans, LA 70118. *Instrument:* Ultra Sensitive State Fluorimeter with Accessories, Model FS900CD. *Manufacturer:* Edinburgh Instruments Ltd., United Kingdom. *Intended Use:* See notice at 60 FR 20967, April 28, 1995. *Reasons:* The foreign instrument provides: (1) ultra sensitive UV/VIS/IR detection, (2) 450W xenon source and (3) a high resolution monochromator with wavelength accuracy of ±0.2 nm. *Advice Received From:* The National Institutes of Health, July 10, 1995.

Docket Number: 95–024. *Applicant:* U.S. Environmental Protection Agency, Narragansett, RI 02882. *Instrument:* Mass Spectrometer, Model VG Optima. *Manufacturer:* Fisons Instruments, Inc., United Kingdom. *Intended Use:* See notice at 60 FR 20968, April 28, 1995. *Reasons:* The foreign instrument provides sample sensitivity of 1 microgram for both carbon and nitrogen trace concentration gaseous analysis. *Advice Received From:* The National Institutes of Health, July 11, 1995.

Docket Number: 95–026. *Applicant:* Tulane University, New Orleans, LA 70118. *Instrument:* Lifetime CD Spectrometer, Model FL 900. *Manufacturer:* Edinburgh Instruments Ltd., United Kingdom. *Intended Use:* See notice at 60 FR 20968, April 28, 1995. *Reasons:* The foreign instrument provides: (1) a small lamp pulse width of less than 1 ns, (2) high intensity lamp excitation with short pulse width, and (3) superior stray light rejection by the instrument's monochromator. *Advice*

Received From: The National Institutes of Health, July 11, 1995.

Docket Number: 95–031. *Applicant:* University of Maryland, College Park, MD 20742–7515. *Instrument:* Monocular Oculometer for the Human Eye. *Manufacturer:* Dr. Bouis, Germany. *Intended Use:* See notice at 60 FR 24838, May 10, 1995. *Reasons:* The foreign instrument provides measurement of horizontal eye movement at a scan rate of 4000/sec. *Advice Received From:* The National Institutes of Health, July 12, 1995.

The National Institutes of Health advises in its memoranda that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 95–22901 Filed 9–13–95; 8:45 am]

BILLING CODE 3510–DS–M

President's Export Council: Meeting of the Subcommittee on the Americas

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The President's Export Council Subcommittee on the Americas will hold an open meeting to discuss topics related to hemispheric integration including: trade promotion in the Americas, a Brazilian trade review and the Mexican peso crisis. The President's Export Council was established on December 20, 1973, and reconstituted May 4, 1979, to advise the President on matters relating to U.S. trade. It was most recently renewed on September 30, 1993, by Executive Order 12689.

DATES: September 29, 1995.

TIME: 9:00 a.m.–1:30 a.m.

ADDRESSES: Main Commerce Building, Room 6029, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. This program is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Chad Hoseth, President's Export Council, Room 2015B, Washington, D.C. 20230. Seating is limited and will be on a first come, first serve basis.

FOR FURTHER INFORMATION CONTACT: Chad Hoseth, President's Export Council, Room 2015B, Washington, D.C. 20230.

Dated: September 8, 1995.

Sylvia Lino Prosak,

Acting Staff Director and Executive Secretary, President's Export Council.

[FR Doc. 95–22887 Filed 9–13–95; 8:45 am]

BILLING CODE 3510–DR–P

National Oceanic and Atmospheric Administration

[I.D. 090795B]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Salmon Subcommittee of the Pacific Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) will hold a public meeting.

DATES: The meeting will be begin on Tuesday, October 10, 1995 at 10 a.m. and may go into the evening until business for the day is completed.

ADDRESSES: The meeting will be held at the Oregon Department of Fish and Wildlife, 2501 SW. First, Commission Room, Portland, OR 97207.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Jim Seger, Economic Analysis Coordinator; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The primary purpose of this meeting is to review selected methodologies used in the Council's management of the Pacific salmon fisheries.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Lawrence D. Six, Executive Director, at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: September 8, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–22891 Filed 9–13–95; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in Sri Lanka

September 8, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 18, 1995.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing, carryover and special carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Also see 60 FR 13410, published on March 13, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 8, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 7, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Sri Lanka and exported during the period which began on January 1, 1995 and extends through December 31, 1995.

Effective on September 18, 1995, you are directed to amend the directive dated March 7, 1995 to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
237	304,360 dozen.
314	4,120,099 square meters.
331/631	2,663,924 dozen pairs.
333/633	2,605 dozen.
334/634	615,833 dozen.
335/835	283,781 dozen.
336/636/836	572,566 dozen.
338/339	1,388,284 dozen.
340/640	1,346,490 dozen.
341/641	1,930,467 dozen of which not more than 1,253,654 dozen shall be in Category 341 and not more than 1,207,271 dozen shall be in Category 641.
342/642/842	584,835 dozen.
345/845	140,563 dozen.
347/348/847	1,557,838 dozen.
350/650	116,046 dozen.
351/651	373,596 dozen.
352/652	1,246,213 dozen.
359–C/659–C [2]	1,343,928 kilograms.
360	1,512,587 numbers.
363	4,194,626 numbers.
369–D [3]	624,518 kilograms.
369–S [4]	487,779 kilograms.
434	7,860 dozen.
435	15,933 dozen.
440	11,735 dozen.
611	5,310,564 square meters.
635	383,861 dozen.
638/639/838	847,546 dozen.
644	256,876 numbers.
645/646	87,331 dozen.
647/648	991,211 dozen.
840	157,671 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[4] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–22831 Filed 9–13–95; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF ENERGY

Use of the 10 CFR Part 960 Siting Guidelines in Evaluating the Suitability of the Yucca Mountain Site

AGENCY: Office of Civilian Radioactive Waste Management, Yucca Mountain. Site Characterization Project.

ACTION: Notice.

SUMMARY: The U.S. Department of Energy (DOE), Office of Civilian Radioactive Waste Management (OCRWM), today gives notice of the rationale for its recent announcement that it will use the General Guidelines for the Recommendation of Sites for the Nuclear Waste Repositories (Guidelines) in 10 CFR Part 960, as they are currently written, in its evaluation of the suitability of the Yucca Mountain site in Nevada for development as a repository. As announced, the use of the Guidelines in this evaluation will be consistent with the Nuclear Waste Policy Act of 1982, as amended (NWPA), including the programmatic changes and reconfiguration provided for in the 1987 amendments to the NWPA, the presentation of this information is in response to a commitment made by the DOE to stakeholders at the public meetings held to discuss the DOE's proposed process for evaluating the suitability of the Yucca Mountain site. DOE has concluded that the existing Guidelines should not be amended at this time.

FOR FURTHER INFORMATION CONTACT: Dr. Jane R. Summerson, U.S. Department of Energy, Office of Civilian Radioactive Waste Management, Yucca Mountain Site Characterization Office, P.O. Box 98608, Las Vegas, NV 89193–8608.

I. Background

IA. Development of the Guidelines

As originally enacted in 1982, section 112 of the NWPA provided that a screening process would be used to identify multiple sites in different geologic media as suitable for extensive site characterization to determine their suitability as repository sites. Upon completion of site characterization, the characterized sites would be compared and a single site would be chosen for recommendation to the President for development as a repository.

On February 13, 1983, to implement section 112, the DOE published the proposed ''General Guidelines for the Recommendation of Sites for the Nuclear Waste Repositories,'' for review and comment (48 FR 5670). The Guidelines were subsequently finalized following consideration of comments from the public and the consultation process with the Nuclear Regulatory Commission (NRC) required by the NWPA. See 10 CFR Part 960. The final concurrence of the NRC was provided on July 10, 1984 (49 FR 28130). On December 6, 1984, the DOE promulgated the final version of the Guidelines (49 FR 47714).

In its preliminary decision on the Guidelines, the NRC conditioned its concurrence on DOE adopting a number of conditions closely linking the Guidelines to NRC regulatory requirements in 10 CFR Part 60 (49 FR 9650). In its final concurrence, the NRC noted that DOE had revised the Guidelines to meet its conditions. In response to comments requesting closer alignment of the guidelines to Environmental Protection Agency (EPA) and NRC requirements, DOE stated that,

> In the event of a conflict between the Guidelines and either 10 CFR Part 60 (NRC regulations) or 40 CFR Part 191 [the EPA regulations], these NRC and EPA regulations will supersede the siting guidelines and constitute the operative requirement in any application of the guidelines. (49 FR 47721).

IB. Previous Applications of the DOE Guidelines

Consistent with section 112(b) of the NWPA, the Guidelines were used by the DOE in the process of nominating five sites as suitable for characterization and the recommendation to the President of three of the nominated sites for characterization as candidate sites for the first repository. Each site nomination was accompanied by an Environmental Assessment (EA) that

included an evaluation of the suitability of that particular site under the Guidelines, based on the information available at that time. Each EA also contained a separate comparative evaluation of the subject site with the other nominated sites. On May 27, 1986, the President approved each of the sites recommended for characterization, including the Yucca Mountain site.

The 1987 amendments to the NWPA eliminated the requirement to consider multiple geologic repository sites and instead provided that site characterization studies would proceed at only the Yucca Mountain, Nevada site to determine whether it is suitable for development as a geologic repository.

In accordance with section 113(b) of the NWPA, the DOE prepared a Site Characterization Plan (SCP) (DOE/RW–0199, 1988), which, among other things, described how the DOE proposed to apply the Guidelines that fall within the scope of the planned site characterization program. Those provisions in the Guidelines that concern environmental quality, socioeconomic impacts, and transportation, and that generally require non-geologic data gathering, were not addressed in the SCP. In December 1988, the DOE submitted the SCP for the Yucca Mountain site to the NRC and to the State of Nevada for their review and comment. The siting provisions of the Guidelines set forth in 10 CFR Part 960 were identified in the SCP as the primary criteria required by section 113(b) of the NWPA to be used to determine the suitability of the Yucca Mountain site for development as a repository.

The DOE's position regarding the applicability of certain provisions in the Guidelines under the 1987 amendments to the NWPA was also presented in the SCP. The DOE stated that the provision in the Guidelines for comparative evaluations of performance was no longer applicable. The DOE also stated that the provision for comparative evaluation of costs relative to other siting options in 10 CFR 960.5–1(a)(3) was no longer applicable. In the SCP, the DOE identified the conditions in the Guidelines for which specific findings would be made in evaluating whether or not the Yucca Mountain site is suitable for development as a repository.

As discussed in the SCP, the implementation provisions in Subpart B of the Guidelines provide that the qualifying conditions of the pre- and postclosure system guidelines, and the qualifying and disqualifying conditions of the pre- and postclosure technical guidelines, be evaluated and that specific findings be made for each condition at principal decision points specified in Appendix III to 10 CFR Part 960. Before a DOE decision is made that the site is suitable and can be recommended for development as a repository, the evidence has to support findings by the DOE that none of the disqualifying conditions are present, that all qualifying conditions are met, and that these conclusions are not likely to change.

II. Consultation on the Application of the Guidelines

Although the SCP for the Yucca Mountain site describes how the DOE would apply the Guidelines during site characterization in evaluating the suitability of the site in light of the 1987 amendments to the NWPA, a number of entities continued to indicate that they remained unclear as to the DOE's future application of the Guidelines. Because of this continuing indication of confusion with regard to the application of the Guidelines and because Section 112(a) of the NWPA and the Guidelines themselves contemplate that the DOE may revise the Guidelines from time to time, the DOE instituted an ongoing dialogue with external parties on the Guidelines.

In October 1993, the DOE briefed the Affected Units of Government, comprised of representatives of the affected counties and the State of Nevada, on its plans for activities related to site suitability evaluation. These plans included activities intended to implement the DOE's commitment to conduct interim evaluations of the suitability of the Yucca Mountain site during the course of site characterization. Prior to beginning such evaluations, the DOE elected to conduct another review of its Guidelines and solicited public input regarding options for the use of the Guidelines in these evaluations. Five options were identified for discussion:

- Continue to use the existing Guidelines without revision.
- Issue a **Federal Register** notice providing the DOE's proposed implementation of the Guidelines consistent with current legislative direction to characterize a single site.
- Amend the existing Guidelines.
- Develop new site-specific Guidelines.
- Adopt the NRC's siting criteria from 10 CFR Part 60, Subpart E.

These discussions regarding the Guidelines continued in a number of meetings with affected Units of Government held in December 1993, and in February and March 1994. A number of comments related to options for the use of the Guidelines were received by the DOE, either in these meetings or in written comments on the DOE's proposed plans for site suitability activities. The State of Nevada and other Affected Units of Government noted that because the development of the Guidelines received broad public exposure through publication in the **Federal Register**, the DOE's current review of the Guidelines also should receive broad public exposure. In response to these comments, on April 25, 1994, the DOE published a Notice of Inquiry (59 FR 19680) eliciting views of the public on, among other things, the appropriate role of the Guidelines in the evaluation of site suitability. The DOE then conducted a public workshop on May 21, 1994, in Las Vegas, Nevada, to discuss the Guidelines and other issues related to the process for the evaluation of site suitability. The DOE also provided the opportunity for the public to submit written comments. The comment period ended on June 24, 1994.

No clearly preferred option was identified through the public comment process. Indeed, each option had its detractors and supporters. This lack of consensus is generally consistent with the results of previous public interactions.

Following the public meeting and the close of the public comment period, and after consideration of the comments received, the DOE published a second Notice on August 4, 1994 (59 FR 39766) announcing, among other things, that it would continue to use the Guidelines in 10 CFR Part 960 as currently written, subject to the programmatic reconfiguration directed by the 1987 amendments to the NWPA.

At public meetings held with stakeholders on August 27, 1994, in Las Vegas, and on August 30, 1994, in Washington, D.C., questions were raised about the rationale for the announcement regarding the use of the Guidelines in 10 CFR Part 960. At these meetings, the DOE committed to providing background information related to this decision to the program stakeholders.

III. Issues Raised During Consultation and DOE's Response

The issues raised during recent consultation on the use and role of the siting provision in 10 CFR Part 960 in the evaluation of site suitability fall into the following general categories:

- The Role of Stakeholders, the Public and DOE in Evaluating the Use of the Guidelines.
- Consistency with the Current Legislative Framework.

• Consistency with NRC Criteria in 10 CFR Part 60.

• Development of Site-Specific Criteria.

The following provides a discussion of the issues raised and background information regarding the rationale for the DOE's announcement (59 FR 39766) regarding the continued application of the Guidelines, as currently written, to the evaluation of the suitability of the Yucca Mountain site in Nevada.

IIIA. Comments Regarding the Role of Stakeholders, the Public and DOE in Evaluating the Use of the Guidelines

Nye County, in their correspondence dated May 17, 1994, stated that ''OCRWM must determine for itself whether or not it can most efficiently continue to conduct the program under the present Guidelines'' and, further, the decision to issue a **Federal Register** Notice on the use of 10 CFR Part 960 ''* * *must be DOE's decision in the first instance.'' The County stated:

> While we certainly agree that it is appropriate and useful to seek input from the stakeholders while DOE reevaluates its siting Guidelines, we believe that it is not incumbent upon oversight organizations to recommend, in the first instance, how to change or interpret the law or Guidelines in order to facilitate DOE's ability to carry out its own program. If, for example, it is determined that formalized interpretations of portions of the Guidelines are needed, then OCRWM should suggest and circulate such interpretations. Oversight organizations, such as Nye County can then comment or make positive suggestions for change.

Nye County added that it ''strongly believes that justification has yet to be made for making wholesale substantive Guideline revisions.''

Nevada's Agency for Nuclear Projects Nevada (Nevada Agency), in their correspondence dated June 22, 1994, stated that ''since the Guidelines provide the standard for DOE's final determination of the suitability of the Yucca Mountain site for development of a repository, and are the basis for any preliminary suitability findings, DOE should commit itself, in the Guidelines, to a process for both public involvement and peer review to enhance confidence in its suitability evaluations.'' Specifically, the Nevada Agency maintained that the Guidelines should be revised to incorporate requirements for a ''specific process of public involvement in the DOE's use of the Guidelines for making a Yucca Mountain site suitability determination, whether preliminary or final.''

The Nevada Agency stressed that ''if DOE proposes revision of the Guidelines, to remain consistent with Section 112(a), it should formally consult with the agencies named, including the Governor of Nevada, before issuance of revised Guidelines, and this consultation should be carried out separately from the Administrative Procedure Act (APA) process to which it has committed.'' The Nevada Agency continued that section 112(a) of the NWPA provides that the Secretary may revise the Guidelines ''consistent with the provisions of this subsection.'' The Nevada Agency maintained that this subsection requires, in addition to concurrence of the NRC, that DOE consult with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the Geological Survey, and interested Governors prior to issuance of Guidelines.'' The Nevada Agency added that ''it would be useful for DOE to issue an advance notice of proposed rulemaking, prior to issuing a proposed rule, in which it develops and analyzes options for revisions to the Guidelines and then requests comment on these options, as well as suggestions of other options to be considered in revision of the Guidelines.''

DOE shares the view of the Nevada Agency that should the Department, at some future date, opt to amend its Guidelines, it should issue an advance notice of proposed rulemaking before it begins the formalized rulemaking process as specified in the Administrative Procedure Act. Extensive consultation with Federal, state, and local entities, as well as with other interested parties should occur, and DOE would obtain NRC concurrence for any guideline revision.

IIIB. Consistency With the Current Legislative Framework

The Nuclear Energy Institute's (NEI) June 24, 1994 response to the DOE Notice of Inquiry, recommended that DOE establish appropriate Guidelines by rulemaking to provide ''clear, unambiguous regulations pertinent only to site suitability and ensure that DOE's regulations are conformed to the NWPA, as amended, the Energy Policy Act, and are consistent with the agency's [DOE] intended actions.'' They argued that if DOE fails to conform 10 CFR Part 960 with the current statutory framework, ''the program will likely be subject to unnecessary litigation, additional costs, and further delays that would be more costly to the program than any delay that may be associated with such a rulemaking.'' The NEI added that ''however, in revising Part 960, DOE should not eliminate those Guidelines appropriate for evaluating, on a comparative basis, multiple sites. Such Guidelines may be useful in the future should, for example, the Yucca Mountain site prove unsatisfactory.''

A number of comments received during the August, 1994 public meetings questioned the continued application of all or parts of the Guidelines given the provisions of the 1987 amendments to the NWPA and the Energy Policy Act of 1992. Some comments were based on the assumption that the Guidelines are intended to be used only in comparing sites and, therefore, are no longer a meaningful basis for the evaluation of a single site. Other comments, while acknowledging the applicability of certain provisions of the Guidelines to the evaluation of a single site, questioned the continued existence of those provisions that call for comparative evaluations and recommended that the Guidelines should be revised to make clear which provisions applied to the evaluation of Yucca Mountain.

The DOE believes that use of 10 CFR Part 960 in these were comparative and so not relevant to single site without comparison the SCP demonstrates that the Guidelines can be applied in evaluating the suitability of a single site. The DOE has decided that for now no amendments are needed to establish the role of the Guidelines in the determination of suitability for the Yucca Mountain site.

DOE notes that under section 801 of the Energy Policy Act of 1992, the EPA is required to promulgate new standards for a repository at the Yucca Mountain site. Because the Guidelines refer explicitly to 40 CFR Part 191, the DOE has proceeded to conduct its site characterization program in accordance with 40 CFR Part 191. The DOE will re-evaluate its plans and consider the need for any changes in the Guidelines once the new EPA standard has been promulgated.

IIIC. Consistency With NRC Criteria in 10 CFR Part 60

The NEI, in their letter dated October 3, 1994, maintained that rulemaking would afford the opportunity to conform DOE's 10 CFR Part 960 with the NRC's 10 CFR Part 60. They argued that such an action:

> would eliminate duplication of, and reduce the possibility for, confusion over appropriate requirements set forth in each regulation. For example, rather than the enumeration and evaluation of ''Potentially Adverse Conditions'' in Subpart C. of the Guidelines, it may be advisable to simply reference 10 CFR 60.122(c) and the Potentially Adverse Conditions listed and

considered there. This will both avoid unnecessary duplication and reduce the possibility for confusion over appropriate requirements.

NEI added that, regardless of whether or not DOE conforms its regulations to NRC's regulations, they suggest that the NRC

be involved as an extension of the concurrent process defined in Section 112(a) of the Nuclear Waste Policy Act (NWPA), and that the process for applying applicable Guidelines in evaluating site suitability for Yucca Mountain could then be memorialized in a Memorandum of Understanding between the two agencies. Involvement of the regulator will assure that there are no additional misunderstandings between DOE and the NRC as to the nature and application of the site suitability evaluation process.

Nye County (letter dated May 17, 1994) argued against adopting as DOE's siting Guidelines, in substance if not in language, the siting criteria of Subpart E of 10 CFR Part 60. The County stated that:

this option masks the real fundamental distinction between site suitability and licensability. The DOE siting guidelines must constitute real true measure of site suitability, as contrasted with examples of licensing emphasis on design conditions, operation of the engineered barrier system, and operating procedures. The Guidelines must reflect the geologic capability of the site itself to isolate waste, without the imposition by the licensing agency of any external requirements. Finally, Nye County believes that adopting NRC's Subpart E of 10 CFR Part 60 would mask the fundamental distinctions between site suitability and licensability.

Opposing views were expressed in the August, 1994 public meetings regarding the need to incorporate the applicable provisions of the NRC technical criteria (10 CFR Part 60, Subpart E) into the Guidelines. In one view, the Guidelines should be revised to incorporate the applicable provisions of 10 CFR Part 60 to the maximum extent possible, to avoid duplication and to reduce the possibility for confusion over appropriate requirements. The other view is that the Guidelines should not be amended to adopt the NRC criteria from 10 CFR Part 60 because this would mask the distinction between site suitability and licensing, with the suitability decision focusing on the geologic capability of the site to isolate waste.

The DOE believes that it is not necessary to abandon its Guidelines and adopt the NRC siting criteria found in 10 CFR Part 60, Subpart E. The DOE Guidelines are expressly derived from and tied to the NRC siting criteria (49 FR 47714) and, as noted in 10 CFR 960.1, are intended to complement the NRC and EPA regulations. The NRC concurred in the Guidelines as required by section 112(a) of the NWPA, after an extensive review, with opportunity for public comment (49 FR 28130). One of the NRC's criteria for concurrence was that the siting provisions of the Guidelines must not be inconsistent with 10 CFR Part 60. Based on the direction provided in section 112(a) regarding the purpose and content of the Guidelines, and the NRC's concurrence on these Guidelines, the DOE does not believe that it is necessary to amend 10 CFR Part 960.

IIID. Development of Site-Specific Criteria

Nye County (letter dated May 17, 1994) expressed opposition to developing site-specific Guidelines ''as such Guidelines will destroy even a facade of scientific integrity for the Yucca Mountain project.'' In addressing amendment of the Guidelines, the County stated that they:

recognize that much knowledge has been gained about disposing of radioactive waste since the Guidelines were first written 10 years ago . . .; the Guidelines themselves contemplate periodic revisions, as is evidenced by the provisions of 10 CFR 960.1. Nye County does not believe that Guidelines should not under any circumstances be amended. At the same time, Nye County believes strongly that no justification has been made for any wholesale substantive revisions of the Guidelines.

[adopting site-specific Guidelines] would clearly constitute what many in Nevada have always feared the most, that is, writing the rules to fit the site rather than characterizing the site to determine whether or not it meets the Guidelines. Furthermore, it is a virtual certainty that the nation will eventually need a second repository. Any DOE Guidelines, therefore, must be applicable to other sites, in other locations, in other geologic media.

Eureka County, in its correspondence dated March 14, 1994, expressed similar views. The County commented that ''revision of the Guidelines in a manner that is perceived by the public to be changing the rules to fit the site would be detrimental to the image of the department, and could adversely affect the department's attempts to build trust and confidence.'' Eureka County continued that ''to write site specific Guidelines for Yucca Mountain would further detract from, if not totally destroy, the public's confidence in the scientific objectivity of the Yucca Mountain characterization program. In addition, new Guidelines would have to be developed when a second repository search begins.''

Site-specific Guidelines were opposed by many at the August, 1994 public meetings. Comments parallel those made by Nye and Eureka County that (1) such a change could be viewed as changing the rules to fit the site and, (2) general Guidelines may still be needed for siting other repositories should the Yucca Mountain site be found to be unsuitable or should a second repository be needed.

The DOE agrees with these observations. Under section 161(b) of the NWPA, the DOE has an obligation to report to the President and Congress on the need for a second repository. Under section 113(c) of the NWPA, if the Yucca Mountain site is determined to unsuitable, the DOE is obligated to report to Congress on recommended actions to assure safe, permanent disposal of spent nuclear fuel and high-level waste. If a second repository is required or the Yucca Mountain site is found to be unsuitable, it will be necessary to have general Guidelines in place to support the required DOE actions.

IV. DOE Position and Basis for DOE Position

DOE will use the Guidelines as they are currently written in its evaluation of the suitability of the Yucca Mountain site in Nevada for development as a repository. The DOE believes it is not necessary to abandon the Guidelines and adopt the NRC siting criteria in 10 CFR Part 60. DOE further believes it is not necessary to amend the Guidelines to remove those provisions that deal with the comparison of multiple sites.

The DOE believes that amending the Guidelines, either to remove those portions that are primarily used for comparative purposes or to develop Guidelines specifically tailored to the evaluation of the suitability of the Yucca Mountain site, is not required at this time. Because DOE need apply only the relevant provisions, the DOE further believes that it is useful to have in place general Guidelines for the comparison of multiple sites in the event the Yucca Mountain site is determined to be unsuitable for development as a repository, or in the event that a site must be selected for a second repository. Although the Guidelines may have to be amended at some future date to be consistent with any future changes to EPA or NRC requirements, for now, no amendments are needed in order to provide clarification as to the appropriate role of the existing Guidelines in the evaluation of a single site.

The DOE has concluded that it is not necessary to abandon its Guidelines and adopt NRC siting criteria found in 10 CFR Part 60, Subpart E. This is because, as noted in Section II.A above, the DOE Guidelines are expressly derived from

and tied to the NRC siting criteria set forth in 10 CFR Part 60. In addition, should any differences between the 10 CFR Part 960 and 10 CFR Part 60 be identified, 10 CFR Part 60 would prevail in the licensing process.

The Implementation Guidelines of 10 CFR Part 960, Subpart B, establish procedures for applying the postclosure and preclosure provisions of the Guidelines in Subparts C and D for the evaluation of multiple sites in different geohydrologic settings in different kinds of host rock. Although prior to 1987, the DOE used these provisions of the Guidelines to assess individual sites as part of the site screening process, the 1987 amendments to the NWPA eliminated the need to consider alternative sites. Therefore, much of Subpart B is no longer applicable to the characterization of a single site. In addition, the various stages of site selection, except for site recommendation for repository development, were completed before passage of the 1987 amendments to the NWPA and the provisions of the Guidelines relating to these stages are no longer applicable to the evaluation of one site. Also, references to comparative site evaluations and associated performance levels are no longer applicable because, the 1987 amendments to the NWPA eliminated the need for any such comparative studies. These provisions will not be applied by DOE in evaluating the suitability of Yucca Mountain as a repository.

The portion of Subpart B of 10 CFR Part 960 that remains applicable to the evaluation of a single site and the relevant postclosure and preclosure guideline provisions in Subparts C and D, respectively, provide the basis for evaluating the suitability of the Yucca Mountain site. In addition, for the purpose of recommending Yucca Mountain for development as a repository, Subpart B provides that the DOE will supply evidence that the repository is likely to comply with applicable EPA and NRC requirements.

As discussed in Section II.B., the DOE provided clarification in the SCP regarding the Guideline conditions for which specific findings would be made in evaluating whether or not the Yucca Mountain site is suitable for development as a repository. Before a DOE decision is made that the site is suitable and can be recommended for development as a repository, the evidence must support findings by the DOE that none of the disqualifying conditions are likely to be present, that all qualifying conditions are likely to be met, and that conclusions regarding such findings are unlikely to change.

DOE recognizes that the licensing process provides additional motivations for conducting activities that go beyond site suitability concerns. Even if there is high confidence that additional information will not change conclusions about site suitability, the DOE may determine that it is prudent to continue activities to address residual uncertainties, to build confidence in models, to confirm performance estimates, or to provide additional assurance to review boards or other parties in the siting and licensing process.

While no provision is made in the Guidelines for specific findings on either the favorable conditions or potentially adverse conditions, if these conditions exist under an evaluated technical or system qualifying condition, DOE will explicitly consider them when making findings on that technical or system qualifying condition, along with other important factors. The DOE notes, however, that as part of its separate and parallel effort to address NRC regulatory issues under 10 CFR Part 60, the DOE will ensure that site characterization studies are conducted to provide the information needed to specifically address the NRC potentially adverse and favorable conditions found in 10 CFR Part 60, Subpart E.

In summary, because Congress directed that only the Yucca Mountain site should be characterized to determine whether it is suitable for development as a geologic repository, none of the comparative portions of the Guidelines are currently applicable. The DOE will make specific findings regarding the applicable qualifying and disqualifying conditions identified in the postclosure and preclosure provisions in 10 CFR Part 960 Subparts C and D respectively, in making its decision whether to recommend the Yucca Mountain site for development as a repository. If favorable or potentially adverse conditions are found to exist under an evaluated technical or system qualifying condition, DOE will explicitly consider them when making findings on that qualifying condition, along with other important factors.

Issued in Washington, DC, on September 5, 1995.

Daniel A. Dreyfus,

Director.

[FR Doc. 95–22840 Filed 9–13–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. ER95–1654–000, et al.]

Northern States Power Company (MN) et al.; Electric Rate and Corporate Regulation Filings

September 6, 1995.

Take notice that the following filings have been made with the Commission:

1. Northern States Power Company (Minnesota Company))

[Docket No. ER95–1654–000]

Take notice that on August 30, 1995, Northern States Power Company (Minnesota)(NSP), tendered for filing a Construction Agreement between NSP and Cooperative Power Association (CPA). This agreement provides for NSP to complete construction of the JohnnyCake Substation for CPA.

NSP requests that the Commission accept the agreement effective September 1, 1995, and requests waiver of the Commission's notice requirements in order for the revisions to be accepted for filing on the date requested.

Comment date: September 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Entergy Power, Inc.

[Docket No. ER95–1655–000]

Take notice that on August 30, 1995, Entergy Power, Inc. (EPI), tendered for filing an Interchange Agreement with Ruston Utilities System.

EPI requests an effective date for the Interchange Agreement that is one (1) day after the date of filing, and respectfully requests waiver of the notice requirements specified in Section 35.11 of the Commission's Regulations.

Comment date: September 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Southwestern Electric Power Company

[Docket No. ER95–1656–000]

Take notice that on August 30, 1995, Southwestern Electric Power Company (SWEPCO), submitted a service agreement establishing LG&E Power Marketing, Inc. as a customer under SWEPCO's umbrella Coordination Sales Tariff CST–1 (CST–1 Tariff).

SWEPCO requests an effective date of August 10, 1995 for the service agreement. Accordingly, SWEPCO seeks waiver of the Commission's notice requirements. Copies of this filing were served upon LG&E Power Marketing, Inc. and the Public Utility Commission of Texas.

Comment date: September 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Company of Oklahoma

[Docket No. ER95–1657–000]

Take notice that on August 30, 1995, Public Service Company of Oklahoma (PSO), submitted a service agreement establishing LG&E Power Marketing Inc. as a customer under the terms of PSO's umbrella Coordination Sales Tariff CST–1 (CST–1 Tariff).

PSO requests an effective date of August 10, 1995, and accordingly, seeks waiver of the Commission's notice requirements. Copies of this filing were served upon LG&E Power Marketing Inc. and the Oklahoma Corporation Commission.

Comment date: September 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Central Power and Light Company

[Docket No. ER95–1658–000]

Take notice that on August 30, 1995, Central Power and Light Company (CPL), submitted a service agreement establishing LG&E Power Marketing Inc. as a customer under CPL's umbrella Coordination Sales Tariff CST–1 (CST–1 Tariff).

CPL requests an effective date of August 10, 1995. Accordingly, CPL seeks waiver of the Commission's notice requirements. Copies of this filing were served upon LG&E Power Marketing Inc. and the Public Utility Commission of Texas.

Comment date: September 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. West Texas Utilities Company

[Docket No. ER95–1659–000]

Take notice that on August 30, 1995, West Texas Utilities Company (WTU), submitted a service agreement establishing LG&E Power Marketing Inc. as a customer under the terms of WTU's umbrella Coordination Sales Tariff CST–1 (CST–1 Tariff).

WTU requests an effective date of August 10, 1995 for the service agreement. Accordingly, WTU seeks waiver of the Commission's notice requirements. Copies of this filing were served upon LG&E Power Marketing Inc. and the Public Utility Commission of Texas.

Comment date: September 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Indiana Michigan Power Company

[Docket No. ER95–1660–000]

Take notice that on August 30, 1995, Indiana Michigan Power Company (I&M), tendered for filing with the Commission Facility Request No. 7 to the existing Agreement, dated December 11, 1989 (1989 Agreement), between I&M and Wabash Valley Power Association, Inc. (WVPA). Facility Request No. 7 was negotiated in response to WVPA's request that I&M provide facilities at a new 69 kV tap station to be owned by Jay County REMC (Co-op Name) and operated by I&M know as Jay County REMC-Trinity Tap Station. The Commission has previously designated the 1989 Agreement as I&M's Rate Schedule FERC No. 81.

As requested by, and for the sole benefit of WVPA, I&M proposes an effective date of November 1, 1995, for Facilities Request No. 7. A copy of this filing was served upon WVPA, the Indiana Utility Regulatory Commission, and the Michigan Public Service Commission.

Comment date: September 21 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22804 Filed 9–13–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP95–716–000, et al.]

Panhandle Eastern Pipe Line Company, et al.; Natural Gas Certificate Filings

September 6, 1995.

Take notice that the following filings have been made with the Commission:

1. Panhandle Eastern Pipe Line Company

[Docket No. CP95–716–000]

Take notice that on August 29, 1995 Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas, 77251–1642, filed in Docket No. CP95–716–000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon in place approximately 4,000 feet of 6-inch pipeline and 4,000 feet of 10-inch pipeline on Panhandle's Lincoln Laterals, and install approximately 4,400 feet of new 6-inch and 4,400 feet of new 10-inch pipeline all located in Logan County, Illinois, under Panhandle's blanket certificate issued in Docket No. CP83–83–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle states that the proposed abandonment would allow the current landowner, Material Service Corporation (MSC), to continue its rock mining operations in the area were the pipeline laterals currently exist. Panhandle states further that the estimated cost to abandon the pipeline in place would be approximately $22,500 and would be 100 percent reimbursed by MSC.

It is said that the new pipeline would be completely installed before the cutting and capping of the existing laterals takes place, in order to minimize the outage time.

Comment date: October 23, 1995, in accordance with Standard Paragraph G at the end of this notice.

2. Northwest Pipeline Corporation

[Docket No. CP95–718–000]

Take notice that on August 29, 1995, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, in Docket No. CP95–718–000, filed a request pursuant to § § 157.205 and 157.211 of the Commission's Regulations under the

Natural Gas Act (18 CFR 157.205 and 157.211) and under its blanket authority granted September 1, 1982, in Docket No. CP82–433, for authorization to construct and operate a 1-inch tap and associated valves and piping as a crossover tie-in between the Clark Meter Station and Northwest's 20-inch Camas to Eugene lateral loop line in Clark County, Washington, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically, Northwest proposes to construct and operate this tie-in for the Clark Meter Station in order to provide an alternate means of gas supply to the Clark Meter Station whenever the 20-inch Camas to Eugene lateral, which normally serves the meter station, is out of service. The design capacity and delivery pressure of the meter station will not change as a result of the proposed modification.

The cost of the proposed crossover tie-in at the Clark Meter Station is estimated to be approximately $9,984.

Comment date: October 23, 1995, in accordance with Standard Paragraph G at the end of this notice.

3. Southern Natural Gas Company

[Docket CP95–719–000]

Take notice that on August 29, 1995, Southern Natural Gas Company (Southern), Post Office 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP95–719–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon measurement and pipeline facilities at 2 delivery points in Aikan County, South Carolina, under Southern's blanket certificate issued in Docket No. CP82–406–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the application on file with the Commission and open to public inspection.

Southern proposes to abandon the delivery point facilities at the Bath Mills and Clearwater Mills Taps in Aikan County, South Carolina. Southern states that the 2 taps were constructed to serve United Merchants and Manufacturers, Inc., under the terms of a sales agreement dated February 9, 1953. Southern also proposes to abandon delivery point facilities used to serve the Huber-Suprex Plant in Aiken County, under the terms of a sales agreement dated June 27, 1952. Southern further proposes to abandon pipeline facilities associated with these services. These facilities include Southern's 4-inch Bath Mills Tap Line, its 4-inch Clearwater Mills Line between milepost 2.337 and milepost 5.440, its 4-inch Huber Suprex Line and its 4-inch Graniteville Line between mileposts 2.660 and 2.810. It is stated that the industrial operations at these 3 locations have ceased and that no gas service has been provided at the meter stations for approximately 4 years. It is asserted that the proposed abandonments would not result in any termination or interruption of existing service.

Comment date: October 23, 1995, in accordance with Standard Paragraph G at the end of this notice.

4. Transcontinental Gas Pipe Line Corporation

[Docket No. CP95–724–000]

Take notice that on August 31, 1995, Transcontinental Gas Pipe Line (Applicant), P.O. Box 1396, Houston, Texas 77251, filed pursuant to Section 7(b) of the Natural Gas Act, for authority to abandon firm transportation service provided to Southern Natural Gas Company (Southern) under Applicant's Rate Schedule X–254, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that on May 10, 1982, Applicant and Southern entered into a transportation agreement under which Applicant transports, on a firm basis up to 6,500 dt/d of natural gas for Southern. This gas is produced at Eugene Island Block 107, offshore Louisiana, and received by Applicant at an interconnection between Applicant's Southwest Louisiana Gathering System and facilities owned by Southern at Eugene Island Block 118. Applicant redelivers equivalent quantities to Southern at a point of interconnection between Southern and Applicant in Section 33, Township 7 South, Range 4 East, Livingston Parish, Louisiana. Service is under Applicant's Rate Schedule X–254.

By letter dated December 8, 1992 Applicant informed Southern that it wanted to terminate Rate Schedule X–254. On July 12, 1993, Southern notified Applicant that it was agreeable to terminating Rate Schedule X–254 effective August 13, 1994. Applicant states that it will not abandon any facilities.

Comment date: September 27, 1995, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22805 Filed 9–13–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. TM96–1–120–000]

Carnegie Interstate Pipeline Co.; Notice of Proposed Change in FERC Gas Tariff

September 8, 1995.

Take notice that on September 1, 1995, Carnegie Interstate Pipeline Company (CIPCO), tendered for filing and acceptance the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1:

Second Revised Sheet No. 7

CIPCO proposed that the tariff sheet become effective on October 1, 1995.

CIPCO states that the above tariff sheet has been revised to reflect a modification to the Annual Charge Adjustment fee, in accordance with the Commission's most recent Annual Charge billing to CIPCO. The Annual Charge Unit Surcharge authorized by the Commission for fiscal year 1996 is $0.0023 per Mcf, or $0.0022 per Dth when converted to CIPCO's measurement basis.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 15, 1995. Protests will be considered by the Commission in 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22811 Filed 9–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–727–000]

National Fuel Gas Supply Corp.; Notice of Petition for Declaratory Order

September 8, 1995.

Take notice that on September 1, 1995, National Fuel Gas Supply Corporation (national Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed with the Commission in Docket No. CP95–202–000 a petition for a declaratory order, or other authorization as may be necessary, requesting authorization to refunctionalize the costs associated with certain facilities currently classified as production plant, all as more fully set forth in the application which is open to the public for inspection.

National Fuel states that it proposes to refunctionalize the following facilities, which are located either in New York or Pennsylvania:

A. 17 items of metering and regulating equipment that serve a storage function but are currently classified as production plant. The net book value of this equipment as of May 31, 1995, was $15,506. National Fuel now proposes to refunctionalize this equipment from production to storage.

B. 234 items of metering and regulating equipment that serve a transmission function but are currently classified as production plant. The net book value of this equipment as of May 31, 1995, was $534,630. National Fuel now proposes to refunctionalize this equipment from production to transmission.

C. 20 items of metering and regulating equipment located on gathering pipelines that serve a transmission function but are currently classified as production plant. National Fuel states that this equipment is used to make deliveries to customers under its FERC Rate Schedules EFT and FT and other shippers. The net book value of this equipment as of May 31, 1995, was $105,590. National Fuel now proposes to refunctionalize this equipment from production to transmission.

D. Inventoried metering and regulating equipment currently carried on National Fuel's accounting books as production plant, when only a portion of such equipment was actually used for production purposes. The net book value of this equipment as of May 31, 1995, was $180,398. Since transmission would be the predominant use of this equipment, National Fuel now proposes to refunctionalize this equipment from production to transmission.

E. Metering and regulating equipment installed at metering and regulating stations owned by National Fuel Gas Distribution Corporation (Distribution) but initially charged to National Fuel's production gas plant account when purchased. Subsequently this metering and regulating equipment was installed without an accounting entry transferring the equipment out of National Fuel's production gas plant and into Distribution's gas plant. The net book value of this equipment as of May 31, 1995, was $269,654. National Fuel proposes to reduce its production plant balances to correct these accounting errors.

F. Various buildings and other structures currently booked in Account 329 of the Commission's Uniform System of Accounts, but which actually serve functions other than production. National Fuel proposes to refunctionalize several structures from production to transmission, storage, or general, depending on the functions they serve. The net book value of this equipment as of May 31, 1995, was $1,183,565. The total original cost of these structures was $2,543,060, of which $2,176,988 would be transferred into general plant, $241,431 would be transferred into transmission, and $124,642 would be transferred into storage.

G. Various equipment items used to drill, maintain, and recondition storage wells and transmission lines that are booked as production plant. The net book value of this equipment as of May 31, 1995, was $243,012. National Fuel states that it would refunctionalize this equipment to either storage or transmission, depending upon how it is currently employed.

H. Various equipment items now booked to Account 337—Other Equipment—which National Fuel states that should be refunctionalized to storage and transmission. These items include office furniture, fire fighting equipment, testers, and miscellaneous tools. National Fuel states that this equipment is currently located in the structures proposed for refunctionalization in the above Paragraph F. The net book value of this equipment as of May 31, 1995, was $77,079.

National Fuel does not propose to construct or operate any new facilities in this petition.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 29, 1995, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a

motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22808 Filed 9–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–508–000]

Northern States Power Co.; Notice of Filing

September 8, 1995.

Take notice that on August 17, 1995, Northern States Power Company (NSP) tendered for filing a revision to its amendment providing the methodology of emission allowance cost recovery for its existing coordination agreements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions of protests should be filed on or before September 19, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22809 Filed 9–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–726–000]

Tennessee Gas Pipeline Co.; Notice of Request Under Blanket Authorization

September 8, 1995.

Take notice that on September 1, 1995, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, file in Docket No. CP95–726–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to operate three (3) existing delivery point facilities, that were initially constructed under Section 311(a) of the Natural Gas Policy Act of 1978 (NGPA), under Tennessee's blanket certificate issued in Docket No. CP82–413–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee states that it has recently constructed three delivery points under Section 311(a) of the NGPA for use in the transportation of natural gas under Subpart B of Part 284 of the Commission's Regulations. Tennessee further states that granting of the requested authorization will enable Tennessee to fully utilize these facilities for all transportation services, pursuant to Section 311 of the NGPA and Section 7 of the Natural Gas Act and will increase the transportation options of customers on Tennessee's system.

It is stated that delivery volumes through the existing delivery points would not impact Tennessee's peak day and annual deliveries; that the proposed activity is not prohibited by its existing tariff; and that Tennessee has sufficient capacity to accommodate the changes proposed herein without detriment or disadvantage to Tennessee's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22807 Filed 9–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–1–29–000]

Transcontinental Gas Pipe Line Corp., Notice of Tariff Filing

September 8, 1995.

Take notice that on September 5, 1995, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, Twelfth Revised Sheet No. 60. Such tariff sheet is proposed to be effective October 1, 1995.

Transco states that the purpose of the filing is to reflect a decrease in the Annual Charge Adjustment (ACA) Charge in the commodity portion of Transco's transportation rates. Pursuant to Order No. 472, the Commission has assessed Transco its ACA unit rate of $0.0023/Mcf ($0.0022/dt on Transco's system) for the annual period commencing October 1, 1995.

Transco states that copies of the filing are being mailed to affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 15, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22813 Filed 9–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–606–001]

Western Gas Interstate Co.; Notice of Application

September 8, 1995.

Take notice that on September 1, 1995, Western Gas Interstate Company (WGI), 504 Lavaca Suite 800, Austin, Texas 78701 filed in Docket No. CP95–606–001, an application pursuant to Section 7 (b) and (c) of the Natural Gas Act (NGA) and §§ 157.7 and 157.17 of the Commission's Regulations for a temporary certificate of public convenience and necessity authorizing WGI: (i) to construct and operate approximately 15.5 miles of eight-inch pipeline and a sales tap in order to provide service to a hog processing plant currently under construction by Seaboard Farms, Inc. (Seaboard) near the City of Guymon, Oklahoma, and to abandon by relocation 7 miles of existing pipeline because of highway expansion;[1] and (ii) to construct and operate, on an interim basis pending the construction of the 15.5 mile segment of eight-inch pipeline, approximately 200 hundred feet of six-inch pipeline

[1] This 7 miles of pipeline runs parallel to 7 miles of the proposed 15.5 miles of pipeline.

connecting the municipal distribution system of the City of Guymon with the Seaboard plant, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

WGI states that the Seaboard Plant is scheduled to open on October 2, 1995, and that the failure of the plant to open on that date would have severe adverse economic effects on the plant and the surrounding community. WGI requests that the Commission grant the request for an expedited permanent certificate, no later than September 11, 1995.

WGI states that the estimated cost of the proposed new delivery point is $1,549,838. It is stated that Seaboard would reimburse WGI $450,000 as part of the costs of the facilities. It is further stated that in connection with this project, the Oklahoma Highway Commission would also pay $371,000 to relocate a portion of its pipeline from a highway expansion project. WGI also states that Seaboard would be served by WGI as a firm transportation customer pursuant to Rate Schedule FT–N. WGI states that service to other customers will not be affected by the construction or operation of the new facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 29, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for WGI to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22806 Filed 9–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–1–121–000]

WestGas InterState, Inc.; Notice of Proposed Changes in FERC Gas Tariff

September 8, 1995.

Take notice that on September 6, 1995, WestGas InterState, Inc. (WestGas) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, First Revised Sheet No. 5. The proposed effective date of the tariff sheet is October 1, 1995.

WGI states that, pursuant to section 154.38(d)(6) of the Commission's regulations and Section 21 of the General Terms and Conditions of its tariff, WGI is making its Annual Charge Adjustment (ACA) filing to reflect a decrease of $.0002 per Dth (from $.0024 to $.0022 per Dth) in its ACA surcharge.

WGI also states that the revised tariff sheet corrects a typographical error in the maximum commodity rate for Rate Schedule IT reflected in the currently-effective rate sheet.

WGI states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 15, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22812 Filed 9–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP90–137–024 and TM95–3–49–003 (not consolidated)]

Williston Basin Interstate Pipeline Co.; Notice of Compliance Filing

September 8, 1995.

Take notice that on September 1, 1995, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing, under protest, revised tariff sheets to Second Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff and to Original Volume No. 1–A of its supersede FERC Gas Tariff.

Williston Basin states that, in accordance with the Commission's August 2, 1995 Order, the revised tariff sheets exempt the Rate Schedule S–2 service performed for Chevron U.S.A. Inc., with Western Gas Resources, Inc. acting as its agent, from Williston Basin's take-or-pay volumetric surcharge both retroactively and prospectively. Williston Basin further states that effective September 1, 1995, this filing also incorporates revised take-or-pay volumetric surcharges which reflect the volumes contained in Williston Basin's August 24, 1995 compliance filing in Docket Nos. RP92–236–000 et al. and which also exclude all S–2 volumes on a prospective basis.

The proposed effective dates for these tariff sheets are as shown on the tariff sheets.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before September 15, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22810 Filed 9–14–95; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL COMMUNICATIONS COMMISSION

[DA 95–1871]

Finsyn Reports

AGENCY: Federal Communications Commission.

ACTION: Suspension of filing deadline.

SUMMARY: The Commission granted a request filed jointly by the National Broadcasting Company, Inc., CBS Inc. and Capital Cities/ABC, Inc. (''Petitioners'') that the requirement to file Network Television Program Ownership and Syndication Reports (''Reports'') be suspended. The Reports are currently due to be filed by September 1, 1995. The Commission noted that one purpose of the Reports is to facilitate preparation of comments in connection with the Commission's review of the financial interest and syndication (''finsyn'') rules prior to the scheduled expiration of those rules. As the comment cycle in that review has now closed, the Commission will not now require additional Reports to be filed. The Commission also recognized that collection and preparation of the information required to be included in the Reports represent a significant burden on Petitioners, and determined that it is not necessary for the Commission to review that information at this time. The intended effect of the Commission's action is to suspend this reporting requirement, while reserving the right to require that the Reports be filed if necessary depending upon the Commission's decision in its review of the finsyn rules.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kim Matthews, Mass Media Bureau (202) 776–1563.

SUPPLEMENTARY INFORMATION:

Adopted: August 28, 1995.
Released: August 28, 1995.

By the Chief, Mass Media Bureau:

1. On August 21, 1995, the National Broadcasting Company, Inc., CBS Inc. and Capital Cities/ABC, Inc. (''Petitioners'') filed a joint request that the requirement to file Network Television Program Ownership and Syndication Reports (''Reports''), pursuant to Section 73.661 of the Commission's Rules, 47 CFR 73.661, be suspended until 30 days after the Commission concludes its final review of the Financial Interest and Syndication ''finsyn'') rules. The Reports are currently due to be filed by September 1, 1995. 47 CFR 73.661(f).

2. The reporting requirements set forth in Section 73.661 were adopted in connection with revisions made by the Commission to the finsyn rules in May 93.[1] At that time, the Commission substantially relaxed its finsyn rules and established a timetable for their complete expiration. The reporting requirements were intended to ''help the Commission monitor the efficacy of the rule changes adopted * * * and oversee the networks' conduct in the program acquisition and syndication markets.''[2] The Commission also noted ''the data collected pursuant to these requirements should prove useful in conducting the scheduled review of the new finsyn regime * * *.''[3]

3. The finsyn rules are presently scheduled to expire on November 10, 1995. The Commission commenced its scheduled review of network activities in the financial interest and syndication areas on April 5, 1995.[4] The burden of proof was placed on those parties seeking continued restrictions. The comment cycle in that proceeding closed in June 1995.

4. Petitioners contend that compilation, preparation and filing of the Reports require a significant amount of time and effort on their part. Petitioners also argue that there is no reason to require them to undertake this effort in view of the status of the Commission's review of the finsyn rules.

5. At the present time, we believe it is not necessary for the Commission to review the information required to be submitted by Petitioners pursuant to Section 73.661. The Reports required by that provision must identify all network prime time entertainment programs and all first-run non-network programs in which the network has financial interests or syndication rights, 47 CFR 73.661(a), and provide information regarding independent syndicators who hold the active syndication rights for these programs. 47 CFR 73.661(c). The Reports must also list the sales to broadcast stations of any such programming the networks actively syndicate. 47 CFR 73.661(b). We recognize that collection and preparation of this information represents a significant burden on Petitioners, and do not believe it is necessary to require them to undertake this effort at this time. One purpose of the Reports is to facilitate preparation of comments in connection with our review of the finsyn rules. A number of Reports were filed, and the comment cycle has closed. Accordingly, we will not now require that additional Reports be filed.

6. Accordingly, *it is ordered* that the request by the National Broadcasting Company, Inc., CBS Inc. and Capital Cities/ABC, Inc. to suspend the deadline to file the Reports required by Section 73.661 of our rules is granted to the extent detailed herein.

7. *It is further ordered* That grant of this request is without prejudice to the Commission's right to require that such Reports be filed if necessary depending upon the Commission's decision in MM Docket No. 95–39.

8. This action is taken pursuant to authority found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and Sections 0.204(b), 0.283, and 1.45 of the Commission's Rules, 47 CFR 0.204(b), 0.283, and 1.45.

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 95–22095 Filed 9–13–95; 8:45 am]

BILLING CODE 6712–01–M

[1] Second Report and Order in MM Docket No. 90–162 (58 FR 28927, May 18, 1993). The Report and Order revised existing reporting requirements in Section 73.661 to reflect changes being made to the finsyn rules.

[2] *Id.* at 28931.

[3] *Id.*

[4] Notice of Proposed Rule Making in MM Docket No. 95–39 (60 FR 19562, April 19, 1995).

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Activities Under OMB Review

The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to approve a new information collection, Federal Supply Contracts—Cooperative Purchasing.

GSA will use the information to identify to state and local governments those schedule contractors that are participating in Cooperative Purchasing and those that are not. If the information were not collected individual activities would be forced to contact individual contractors, on a recurring basis, to determine their participation status.

AGENCY: Office of GSA Acquisition Policy.

ADDRESSES: Send comments to Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Streets NW., Washington, DC 20405.

ANNUAL REPORTING BURDEN: 7,000 responses per year, 12 minutes per response annual burden hours 1400.

FOR FURTHER INFORMATION CONTACT: Ida Ustad (202–501–1043).

COPY OF PROPOSAL: A copy of this proposal may be obtained from the Information Collection Management Branch (CAIR), Room 7102, GSA Building, 18th & F Streets, NW, Washington, DC 20405, or by telephoning (202) 501–2691, or by faxing your request to (202) 501–2727.

Dated: September 6, 1995.

Kenneth S. Stacey,

Acting Director, Information Management Division (CAI).

[FR Doc. 95–22795 Filed 9–13–95; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made final findings of scientific misconduct in the following case:

Catherine Kerr, St. Mary's Hospital: The Office of Research Integrity (ORI) conducted an investigation into possible scientific misconduct on the part of Ms. Catherine Kerr while she was a data coordinator at St. Mary's Hospital, Montreal, Quebec. ORI concluded that Ms. Kerr committed scientific misconduct by falsifying and fabricating the dates of tests or examinations required prior to study entry for one woman entered on the Breast Cancer Prevention Trial (BCPT). She also fabricated laboratory results and falsified dates of laboratory tests used to follow the progress of another woman entered on the trial. The BCPT is coordinated by the National Surgical Adjuvant Breast and Bowel Project (NSABP) and supported by the National Cancer Institute and the National Heart, Lung, and Blood Institute. Because the BCPT is still in progress, no conclusions or results have been published and no clinical recommendations have been based on the results of the study.

Ms. Kerr originally appealed but later withdrew her request for a hearing on the ORI findings and administrative actions, which require that, for a period of three years, any institution that proposes Ms. Kerr's participation in PHS-supported research must submit a supervisory plan designed to ensure the scientific integrity of her contribution. Ms. Kerr is also prohibited from serving in any advisory capacity to PHS for a period of three years.

FOR FURTHER INFORMATION CONTACT: Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852.

Lyle W. Bivens,

Director, Office of Research Integrity.

[FR Doc. 95–22789 Filed 9–13–95; 8:45 am]

BILLING CODE 4160–17–P

Administration for Children and Families

New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: August 1995

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

SUMMARY: This notice lists new proposals for welfare reform and combined welfare reform/Medicaid demonstration projects submitted to the Department of Health and Human Services for the month of August, 1995. It includes both those proposals being considered under the standard waiver process and those being considered under the 30 day process. Federal approval for the proposals has been requested pursuant to section 1115 of the Social Security Act. This notice also lists proposals that were previously submitted and are still pending a decision and projects that have been approved since August 1, 1995. The Health Care Financing Administration is publishing a separate notice for Medicaid only demonstration projects.

Comments: We will accept written comments on these proposals. We will, if feasible, acknowledge receipt of all comments, but we will not provide written responses to comments. We will, however, neither approve nor disapprove any new proposals under the standard application process for at least 30 days after the date of this notice to allow time to receive and consider comments. Direct comments as indicated below.

ADDRESSES: For specific information or questions on the content of a project contact the State contact listed for that project.

Comments on a proposal or requests for copies of a proposal should be addressed to: Howard Rolston, Administration for Children and Families, 370 L'Enfant Promenade SW., Aerospace Building, 7th Floor West, Washington DC 20447. FAX: (202) 205–3598 PHONE: (202) 401–9220.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 1115 of the Social Security Act (the Act), the Secretary of Health and Human Services (HHS) may approve research and demonstration project proposals with a broad range of policy objectives.

In exercising her discretionary authority, the Secretary has developed a number of policies and procedures for reviewing proposals. On September 27, 1994, we published a notice in the **Federal Register** (59 FR 49249) that specified (1) the principles that we ordinarily will consider when approving or disapproving demonstration projects under the authority in section 1115(a) of the Act; (2) the procedures we expect States to use in involving the public in the development of proposed demonstration projects under section 1115; and (3) the procedures we ordinarily will follow in reviewing demonstration proposals. We are committed to a thorough and expeditious review of State requests to conduct such demonstrations.

On August 16, 1995, the Secretary published a notice in the **Federal Register** (60 FR 158) exercising her discretion to request proposals testing welfare reform strategies in five areas. Since such projects can only incorporate provisions included in that announcement, they are not subject to the Federal notice procedures. The Secretary proposed a 30 day approval process for those provisions. As previously noted, this notice lists all new or pending welfare reform demonstration proposals under section 1115. Where possible, we have identified the proposals being considered under the 30 day process. However, the Secretary reserves the right to exercise her discretion to consider any proposal under the 30 day process if it meets those criteria in the five specified areas and the State requests it or concurs.

II. Listing of New and Pending Proposals for the Month of August, 1995

As part of our procedures, we are publishing a monthly notice in the **Federal Register** of all new and pending proposals. This notice contains proposals for the month of August, 1995.

Project Title: California - Work Pays Demonstration Project (Amendment).

Description: Would amend Work Pays Demonstration Project by adding

provisions to: Reduce benefit levels by 10% (but retaining the need level); reduce benefits an additional 15% after 6 months on assistance for cases with an able-bodied adult; time-limit assistance to able-bodied adults to 24 months, and not increase benefits for children conceived while receiving AFDC.

Date Received: 3/14/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Glen Brooks, (916) 657–3291.

Project Title: California—Assistance Payments Demonstration Project (Amendment).

Description: Would amend the Assistance Payments Demonstration Project by: Exempting certain categories of AFDC families from the State's benefit cuts; paying the exempt cases based on grant levels in effect in California on November 1, 1992; and renewing the waiver of the Medicaid maintenance of effort provision at section 1902(c)(1) of the Social Security Act, which was vacated by the Ninth Circuit Court of Appeals in its decision in *Beno* v. *Shalala.*

Date Received: 8/26/94.

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: Michael C. Genest, (916) 657–3546.

Project Title: California—Work Pays Demonstration Project (Amendment).

Description: Would amend the Work Pays Demonstration Project by adding provisions to not increasing AFDC benefits to families for additional children conceived while receiving AFDC.

Date Received: 11/9/94.

Type: AFDC.

Current Status: Pending.

Contact person: Eloise Anderson, (916) 657–2598.

Project Title: California—School Attendance Demonstration Project.

Description: In San Diego County, require AFDC recipients ages 16–18 to attend school or participate in JOBS.

Date Received: 12/5/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Michael C. Genest (916) 657–3546.

Project Title: California—Incentive to Self-Sufficiency Demonstration.

Description: Statewide, would require 100 hours CWEP participation per month for JOBS mandatory individuals who have received AFDC for 22 of the last 24 months and are working fewer than 15 hours per week after two years from JOBS assessment and: have failed to comply with JOBS without good cause, have completed CWEP or are in CWEP less than 100 hours per month, or have completed or had an opportunity to complete post-assessment education and training; provide Transitional Child Care and Transitional Medicaid to families who become ineligible for AFDC due to increased assets or income resulting from marriage or the reuniting of spouses; increase the duration of sanctions for certain acts of fraud.

Date Received: 12/28/94.

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: Michael C. Genest (916) 657–3546.

Project Title: Connecticut—A Fair Chance—Modification.

Description: Proposed modifications would: Establish time limits; disregard earnings for time-limited recipients up to poverty level; reduce benefit increase for additional children by one-half; require minor parents to live with adult; change redetermination, verification, and reporting requirements; provide employer tax credits for hiring AFDC recipients; require biometric identification as condition of eligibility for unit; establish two-tier payment system for new residents; simplify and conform AFDC and Food Stamp rules on resources; allow 24 weeks of job search without child care guarantee; change good cause criteria regarding participation; change JOBS sanctions; apply uniform sanction policy for JOBS, child support, and voluntary quits; extend transitional Medicaid to two years; provide transitional child care while income below 75% of state median; limit the application period for transitional child care to 6 months after leaving AFDC; establish fee for child care for AFDC recipients; serve non-custodial parents under JOBS.

Date Received: 8/10/95.

Type: Combined AFDC/Medicaid.

Current Status: New.

Contact Person: Nancy Wiggett, (203) 424–5329.

Project Title: Florida—Family Transition Program (Amendments).

Description: Would expand the Family Transition Program demonstration, currently operating in two counties, to six additional counties. The demonstration limits, with some exceptions, AFDC benefits to 24 months in any 60-month period followed by participation in transitional employment. For families subject to the time limit, it replaces current $90 and $30 and one-third disregards with a single, non-time-limited disregard of $200 plus one-half of the remainder; disregards income of a stepparent whose needs are not included in the assistance unit for the first 6-months of receipt of public assistance; excludes summer earnings of teens and interest income; lowers age of child for JOBS exemption to 6-months; raises asset limit to $5,000 plus a vehicle of reasonable worth used primarily for self-sufficiency purposes; extends transitional Medicaid and child care benefits; eliminates 100-hour and required quarters of work rules, and (on a case-by-case basis) the 6-month time limit requirements in the AFDC-UP program; requires school conferences and regular school attendance; offers incentive payments to private employers who hire hard-to-place AFDC recipients; and allows non-custodial parents of AFDC children to participate in JOBS. Statewide, the demonstration requires immunizations of pre-school-age children.

Date Received: 8/2/95.

Type: Combined AFDC/Medicaid.

Current Status: Pending—30 Day Approval Process for all areas except the school attendance component.

Contact Person: Don Winstead, (904) 921–5567.

Project Title: Georgia—Work for Welfare Project.

Description: Work for Welfare Project. In 10 pilot counties would require every non-exempt recipient and non-supporting parent to work up to 20 hours per month in a state, local government, federal agency or nonprofit organization; extends job search; and increases sanctions for JOBS noncompliance. On a statewide basis, would increase the automobile exemption to $4,500 and disregard earned income of children who are full-time students.

Date Received: 6/30/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Nancy Meszaros, (404) 657–3608.

Project Title: Hawaii—Families Are Better Together.

Description: Statewide, would eliminate 100-hour, attachment to the work force, 30 day unemployment and principal wage earner criteria for AFDC-UP families.

Date Received: 5/22/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Patricia Murakami, (808) 586–5230.

Project Title: Illinois—Six Month Paternity Establishment Demonstration.

Description: In 20 counties, would require the establishment of paternity, unless good cause exists, within 6 months of application or redetermination as a condition of AFDC and Medicaid eligibility for both mother

and child; would deny Medicaid to children age 7 and under, exclude children from filing rules, and exempt Department from making protective payments to eligible children, when custodial parent has not cooperated in establishing paternity; delegate the establishment of paternity in uncontested cases to caseworkers who perform assistance payment or social service functions under title IV-A or XX.

Date Received: 7/18/95.

Title: AFDC/Medicaid.

Current Status: Pending.

Contact Person: Karan D. Maxson, (217) 785–3300.

Project Title: Illinois—School Attendance Demonstration.

Description: Statewide, would require the participation in a plan for poor elementary school attendance and, upon continuation of poor attendance, the establishment of a protective payee, progressing to the removal of the caretaker's portion of the AFDC grant.

Date Received: 7/18/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Karan D. Maxson, (217) 785–3300.

Project Title: Illinois—Work and Responsibility Demonstration.

Description: The demonstration includes six components, five of which will be implemented statewide. (1) Targeted Work Initiative—would limit receipt of AFDC benefits to a total of 24 months without earnings for households whose youngest child is at least 13 years of age; any month with budgeted income due to employment will not be counted toward the 24 month time limit. (2) Get a Job Initiative—new applicants determined to be job ready and whose children are between 5 and 12 will be required to participate in job search for up to six months. (3) Family Accountability—assistance payments will not be increased as a result of the birth of children conceived while the parent was receiving assistance. (4) Job Track—exempt volunteers for JOBS will become subject to the same requirements and sanctions as non-exempt participants; participation in basic education or GED programs will be limited to two years unless the individual is working or participating in an approved work activity. (5) Self-Sufficiency Plan—all applicants and recipients will be required to complete a self-sufficiency plan as a condition of eligibility. (6) Quarterly Budgeting—in selected sites, cases with earned income will be required to report income quarterly; the information will be used to prospectively budget income for the next quarter. Failure to report earnings will result in case closure and overpayment recovery.

Date Received: 7/18/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Karan D. Maxson, (217) 785–3300.

Project Title: Kansas—Actively Creating Tomorrow for Families Demonstration.

Description: Would, after 30 months of participation in JOBS, make adults ineligible for AFDC for 3 years; replace $30 and 1/3 income disregard with continuous 40% disregard; disregard lump sum income and income and resources of children in school; count income and resources of family members who receive SSI; exempt one vehicle without regard for equity value if used to produce income; allow only half AFDC benefit increase for births of a second child to families where the parent is not working and eliminate increase for the birth of any child if families already have at least two children; eliminate 100-hour rule and work history requirements for UP cases; expand AFDC eligibility to pregnant women in 1st and 2nd trimesters; extend Medicaid transitional benefits to 24 months; eliminate various JOBS requirements, including those related to target groups, participation rate of UP cases and the 20-hour work requirement limit for parents with children under 6; require school attendance; require minors in AFDC and NPA Food Stamps cases to live with a guardian; make work requirements and penalties in the AFDC and Food Stamp programs more uniform; and increase sanctions for not cooperating with child support enforcement activities.

Date Received: 7/26/94.

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: Faith Spencer, (913) 296–0775.

Project Title: Maine—Project Opportunity.

Description: Increase participation in Work Supplementation to 18 months; use Work Supplementation for any opening; use diverted grant funds for vouchers for education, training or support services; and extend transitional Medicaid and child care to 24 months.

Date Received: 8/5/94.

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: Susan L. Dustin, (207) 287–3106.

Project Title: Mississippi—A New Direction Demonstration Program—Amendment.

Description: Statewide, would amend previously approved New Direction Demonstration Program by adding provision that a family's benefits would not increase as a result of additional children conceived while receiving AFDC.

Date Received: 2/17/95.

Type: AFDC

Current Status: Pending.

Contact Person: Larry Temple, (601) 359–4476.

Project Title: New Hampshire—Earned Income Disregard Demonstration Project.

Description: AFDC applicants and recipients would have the first $200 plus 1/2 the remaining earned income disregarded.

Date Received: 9/20/93.

Type: AFDC.

Current Status: Pending.

Contact Person: Avis L. Crane, (603) 271–4255.

Project Title: New Mexico—Untitled Project.

Description: Would increase vehicle asset limit to $4500; disregard earned income of students; develop an AFDC Intentional Program Violation procedure identical to Food Stamps; and allow one individual to sign declaration of citizenship for entire case.

Date Received: 7/7/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Scott Chamberlin, (505) 827–7254.

Project Title: North Dakota—Training, Education, Employment and Management Project.

Description: Would require families to develop a social contract specifying time-limit for becoming self-sufficient; combine AFDC, Food Stamps and LIHEAP into single cash payment with simplified uniform income, expense and resource exclusions; increase income disregards and exempt stepparent's income for six months; increase resource limit to $5000 for one recipient and $8000 for families with two or more recipients; exempt value of one vehicle; eliminate 100-hour rule for AFDC–UP; impose a progressive sanction for non-cooperation in JOBS or with child support; require a minimum of 32 hours of paid employment and non-paid work; require participation in EPSDT; and eliminate child support pass-through.

Date Received: 9/9/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Kevin Iverson, (701) 224–2729.

Project Title: Ohio—Learning, Earning and Parenting (LEAP) program.

Description: Statewide, would modify and extend by 6 and 1/2 years the previously approved Learning, Earning,

and Parenting Demonstration to require enrollment and regular school attendance by pregnant and parenting teens; provide a $62 bonus or sanction based on attendance; require continued participation in JOBS by LEAP participants who turn 20 and have a child over 6 weeks of age; provide a $62 grade completion bonus for those in high school; provide a graduation or GED completion bonus of $200; implement a progressive sanction leading to removal of the needs of the teen parent and her child/children in determining amount of AFDC; and continue the LEAP progressive sanction when the participant turns 20, if she remains JOBS mandatory.

Date Received: 6/19/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Jackie Martin, (614) 466–8530.

Project Title: Oregon—Oregon Option.

Description: As a statewide project, would incorporate waivers already approved in 1992 for JOBS Welfare Program and in 1994 for the JOBS Plus Demonstration with previously pending waiver requests to increase vehicle asset limit and extend transitional child care. Requests guaranteed level of federal funding, with funds not used for benefits to be used for other community support or prevention programs. Also would, with some exceptions, limit receipt of AFDC benefits to no more than 24 out of 84 months for families with employable parents; allow case manager to determine JOBS exemptions on an individual basis; eliminate the time restrictions on job search; impose progressive sanctions, leading to full-family ineligibility, for non-compliance with JOBS; require ineligible alien parents of AFDC children to participate in JOBS; require counseling for recipients with substance abuse problems; require teen parents to live in an adult-supervised setting; discontinue the AFDC-UP program from June through September each year and eliminate the 100-hour rule and work history requirements; increase asset limit to $2,500 for non-JOBS participants and $10,000 for JOBS participants, and treat lump-sum payments as an asset; require annual AFDC eligibility redeterminations; modify the rules for potential liability under EBT.

Date Received: 7/10/95.

Type: AFDC/Medicaid.

Current Status: Pending.

Contact Person: Jim Neely, (503) 945–5607.

Project Title: Oregon—Expansion of the Transitional Child Care Program.

Description: Provide transitional child care benefits without regard to months of prior receipt of AFDC and provide benefits for 24 months.

Date Received: 8/8/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Jim Neely, (503) 945–5607.

Project Title: Oregon—Increased AFDC Motor Vehicle Limit.

Description: Would increase automobile asset limit to $9000.

Date Received: 11/12/93.

Type: AFDC.

Current Status: Pending.

Contact Person: Jim Neely, (503) 945–5607.

Project Title: Pennsylvania—School Attendance Improvement Program.

Description: In 7 sites, would require school attendance as condition of eligibility.

Date Received: 9/12/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Patricia H. O'Neal, (717) 787–4081.

Project Title: Pennsylvania—Savings for Education Program.

Description: Statewide, would exempt as resources college savings bonds and funds in savings accounts earmarked for vocational or secondary education and disregard interest income earned from such accounts.

Date Received: 12/29/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Patricia H. O'Neal, (717) 787–4081.

Project Title: South Carolina—Family Independence Program

Description: Statewide, would, with exceptions, time limit AFDC benefits to families with able bodied adults to 24 months out of 120 months, not to exceed 60 months in a lifetime; eliminate increase in AFDC benefit resulting from birth of children 10 or more months after the family begins AFDC receipt, but provide benefits to such children in the form of vouchers for goods and services permitting child's mother to participate in education, training, and employment-related activities; eliminate deprivation requirements, principal earner provisions, work history requirements, and 100-hour rule for AFDC-UP; increase AFDC resource limit to $2,500 and disregard as resources one vehicle with a market value up to $10,000, the balance in an Individual Development Account (IDA) up to $10,000, and the cash value of life insurance; disregard from income up to $10,000 in lump sum payments deposited in an IDA within 30 days of receipt, earned income of children attending school, and interest and dividend income up to $400; require participation in a family skills training program; require certain AFDC recipients to submit to random drug tests and/or participate in alcohol or drug treatment; require children to attend school; increase amount of child support passed through to AFDC recipients; require more extensive information for child support enforcement purposes; modify JOBS exemptions and good cause criteria, and increase sanctions for non-compliance; make job search a condition of eligibility; allow non-custodial parents of AFDC children to participate in JOBS; pay transitional grant equaling 3 percent of the maximum family grant following employment; and provide transitional grant Medicaid and child care for 12 months from the date of employment for cases previously closed due to time limit.

Date Received: 6/12/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Linda Martin (804) 737–6010.

Project Title: Washington—Success Through Employment Program

Description: Statewide, would eliminate the 100-hour rule for AFDC-UP families; impose a 10 percent grant reduction for AFDC recipients who have received assistance for 48 out of 60 months, and impose an additional 10 percent grant reduction for every additional 12 months thereafter, and budget earnings against the original payment standard; and hold the food stamp benefit level constant for cases whose AFDC benefits are reduced due to length of stay on assistance.

Date Received: 2/1/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Liz Begert Dunbar, (206) 438–8350.

III. Listing of Approved Proposals Since August 1, 1995

Project Title: Maryland—Welfare Reform Project.

Contact Person: Katherine L. Cook, (410) 767–7338.

Project Title: Massachusetts—Welfare Reform '95.

Contact Person: Valerie Foretra, (617) 348–5508.

Project Title: Wisconsin—Pay for Performance (Self Sufficiency First was included as a part of Pay For Performance).

Contact Person: Jean Sheil, (608) 266–0613.

IV. Requests for Copies of a Proposal

Requests for copies of an AFDC or combined AFDC/Medicaid proposal should be directed to the Administration for Children and Families (ACF) at the address listed above. Questions concerning the content of a proposal should be directed to the State contact listed for the proposal.

(Catalog of Federal Domestic Assistance Program, No. 93562; Assistance Payments—Research)

Dated: September 11, 1995.

Howard Rolston,

Director, Office of Policy and Evaluation.

[FR Doc. 95–22890 Filed 9–13–95; 8:45 am]

BILLING CODE 4184–01–P

Food and Drug Administration

[Docket No. 95N–0259]

Over-the-Counter Drug Labeling; Public Meeting; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public hearing; request for comments; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of August 16, 1995 (60 FR 42578). The document announced a public hearing to discuss over-the-counter (OTC) drug labeling issues. The document also solicited comments from interested persons on various aspects of OTC drug labeling that would improve the communication of information to consumers and solicited specific comments and/or data on the costs and benefits of an improved labeling format. The document was published with some errors. The date in which comments are due to the agency, and the date that notices of participation are due to the agency were erroneous. This document corrects those errors and adds a question for public comment which was inadvertently omitted.

FOR FURTHER INFORMATION CONTACT: Ilisa B. G. Bernstein, Office of the Commissioner, Office of Policy (HF–23), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3380.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), ATTN: OTC Drug Labeling Hearing, Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, or FAX 301–594–3215.

In FR Doc. 95–20245, appearing on page 42578 in the **Federal Register** of August 16, 1995, the following corrections are made:

1. On page 42578, in the first column, under the **DATES** caption, in the last sentence ''December 29, 1995'' is corrected to read ''October 30, 1995.''

2. On page 42580, in the third column, in the first full paragraph, in line 6, the date ''September 11, 1995'' is corrected to read ''September 15, 1995''. Additionally, on the same page, in the second column, after the fifth paragraph, new section ''F.'' is added to read as follows:

F. Process Issue

As part of FDA's ongoing effort to improve OTC labeling, the agency believes that it may have to revise many of the OTC monographs to improve and simplify communication of the information. Because revising the labeling portion of the monographs would be a major undertaking, the agency seeks public comment on the process that should be followed by FDA to ensure that the revisions are completed in an efficient and expedient manner. The agency intends on using its own experts to develop revised language that would be published in a notice of proposed rulemaking (NPRM). The agency also intends to allow a longer than usual comment period of 120, 150, or 180 days, to allow for consumer testing of the proposed language by FDA and other interested parties. Based on the results of the testing and comments received, the agency would then develop a final rule for the monograph(s). The agency would group monographs together, so as to develop a small number of NPRM's for this effort. Please comment on whether this process is appropriate, or if other steps should be taken for monograph revisions.

Dated: September 7, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–22788 Filed 9–13–95; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Library of Medicine; Meeting of the Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Library of Medicine, on October 26–27, 1995, in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. to 12:45 p.m. and from 1:45 to 4:45 p.m. on October 26 and from 9:00 a.m. to approximately 12 noon on October 27 for the review of research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Jackie Duley at (301) 496–4441 in advance of the meeting.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S.C., and section 10(d) of Public Law 92–463, the meeting will be closed to the public on October 26, from approximately 12:45 p.m. to 1:45 p.m. for the consideration of personnel qualifications and performance of individual investigators and similar items, the disclosure of which would constitute an unwarranted invasion of personal privacy.

The Executive Secretary, Dr. Harold M. Schoolman, Acting Director, Lister Hill National Center for Biomedical Communications, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone (301) 496–4441, will furnish summaries of the meeting, rosters of committee members, and substantive program information.

Dated: September 8, 1995.

Susan K. Feldman,

Committee Management Officer, National Institutes of Health.

[FR Doc. 95–22893 Filed 9–13–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Child Health and Human Development; Meeting of the National Advisory Board on Medical Rehabilitation Research

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Board on Medical Rehabilitation Research, National Institute of Child Health and Human Development, October 19–20, 1995, Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

The meeting will be open to the public from 8:30 a.m. to 5:00 p.m. on October 19 and 8:30 a.m. to adjournment on October 20. Attendance by the public will be limited to space available. Board topics will include: (1) A report on fiscal issues concerning the National Center for Medical Rehabilitation Research (Center) and the Institute; (2) reports on program activities of the Center; (3) a discussion of general priority areas of research for the Center; (4) a report on substance

abuse and people with disabilities; and (5) a discussion of support for medical rehabilitation research by government agencies.

Ms. Debbie Welty, Board Secretary, NICHD, 6100 Building, Room 2A03, National Institutes of Health, Bethesda, Maryland 20892, Area Code 301–402–2242, will provide a summary of the meeting and a roster of Advisory Board members as well as substantive program information. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Welty.

Dated: September 8, 1995.

Susan K. Feldman,

Committee Management Officer, National Institutes of Health.

[FR Doc. 95–22894 Filed 9–13–95; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meetings:

Name of SEP: Collection and Storage Centers for Clinical Research on Transplantation of Umbilical Cord Stem and Progenitor Cells.
Date: October 30, 1995.
Time: 8:00 a.m.
Place: Holiday Inn, Bethesda, Maryland.
Contact Person: Deborah P. Beebe, Ph.D., Rockledge II, Room 7206, 6701 Rockledge Drive, Bethesda, Maryland 20892–7924, (301) 435–0303.
Purpose/Agenda: To review and evaluate contract proposals.

Name of SEP: Transplant Centers for Clinical Research on Transplantation of Umbilical Cord Stem and Progenitor Cells.
Date: October 30–31, 1995.
Time: 3:00 p.m.
Place: Holiday Inn, Bethesda, Maryland.
Contact Person: Deborah P. Beebe, Ph.D., Rockledge II, Room 7206, 6701 Rockledge Drive, Bethesda, Maryland 20892–7924, (301) 435–0303.
Purpose/Agenda: To review and evaluate contract proposals.

Name of SEP: Medical Coordinating Center for Clinical Research on Transplantation of Umbilical Cord Stem and Progenitor Cells.
Date: October 31, 1995.
Time: 10:00 a.m.
Place: Holiday Inn, Bethesda, Maryland.
Contact Person: Deborah P. Beebe, Ph.D., Rockledge II, Room 7206, 6701 Rockledge Drive, Bethesda, Maryland 20892–7924, (301) 435–0303.
Purpose/Agenda: To review and evaluate contract proposals.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: September 8, 1995.

Susan K. Feldman,

Committee Management Officer, National Institutes of Health.

[FR Doc. 95–22895 Filed 9–13–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Notice of Meeting of the National Deafness and Other Communication Disorders Advisory Council and its Planning Subcommittee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Deafness and Other Communication Disorders Advisory Council and its Planning Subcommittee on October 11–13, 1995, at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. The meeting of the full Council will be held in Conference Room 6, Building 31C, and the meeting of the subcommittee will be in Conference Room 7, Building 31C.

The meeting of the Planning Subcommittee will be open to the public on October 11 from 2 pm until 3 pm for the discussion of policy issues. The meeting of the full Council will be open to the public on October 12 from 8:30 am until recess for a report from the Institute Director and discussion of extramural policies and procedures at the National Institutes of Health and the National Institute on Deafness and Other Communication Disorders and on October 13 from 8:30 am to approximately 9:30 am for a report on extramural programs of the Division of Human Communication. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting of the Planning Subcommittee on October 11 will be closed to the public from 3 pm to adjournment. The meeting of the full Council will be closed to the public on October 13 from approximately 9:30 am until adjournment. The closed portions of the meeting will include a report on the Division of Intramural Research and the review, discussion, and evaluation of individual grant applications. The application and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council and Subcommittee meeting may be obtained from Dr. Earleen F. Elkins, Executive Secretary, National Deafness and other Communication Disorders Advisory Council, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, Executive Plaza South, Room 400C, 6120 Executive Blvd., MSC7180, Bethesda, Maryland 20892, 301–496–8693. A summary of the meeting and rosters of the members may also be obtained from her office. For individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, please contact Dr. Elkins at least two weeks prior to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: September 8, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–22896 Filed 9–13–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel.
Date: September 28, 1995.
Time: 2 p.m. to 5 p.m.
Place: 6120 Executive Boulevard, Room 400 C, Rockville, MD 20852.
Contact Person: Mary Nekola, Ph.D., Scientific Review Administrator, NIH, NIDCD, EPS Room 400C, 6120 Executive Boulevard, MSC 7180, Bethesda, MD 20892–7180, 301/496–8683.

Purpose/Agenda: To review and evaluate a Center grant application (P50).

The meeting, which will be conducted as a telephone conference call, will be closed in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: September 8, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–22897 Filed 9–13–95; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Notice of Meeting of the Literature Selection Technical Review Committee

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Literature Selection Technical Review Committee, National Library of Medicine, on October 12–13, 1995, convening at 9 a.m. on October 12 and at 8:30 a.m. on October 13 in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on October 12 will be open to the public from 9 a.m. to approximately 10:30 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mrs. Lois Ann Colaianni at 301–496–6921 two weeks before the meeting.

In accordance with provisions set forth in sec. 552b(c)(9)(B), Title 5, U.S.C., Public Law 92–463, the meeting will be closed on October 12 from 10:30 a.m. to approximately 5 p.m. and on October 13 from 8:30 a.m. to adjournment for the review and discussion of individual journals as potential titles to be indexed by the National Library of Medicine. The presence of individuals associated with these publications could hinder fair and open discussion and evaluation of individual journals by the Committee members.

Mrs. Lois Ann Colaianni, Scientific Review Administrator of the Committee, and Associate Director, Library Operations, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301–496–6921, will provide a summary of the meeting, rosters of the committee members, and other information pertaining to the meeting.

Dated: September 5, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–22898 Filed 9–13–95; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: National Institute of Allergy and Infectious Diseases Special Emphasis Panel-Tropical Medicine Research Centers.

Date: October 18–20, 1995.

Time: 8:30 a.m.

Place: Woodfin Suites, 1380 Piccard Drive, Rockville, MD 20850.

Contact Person: Dr. Sayeed Quraishi, Scientific Review Administrator, 6003 Executive Boulevard, Solar Bldg., Room 4C22, Bethesda, MD 20892–7610, (301) 596–7465.

Purpose/Agenda: To evaluate and review individual grant applications.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: September 6, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

FR Doc. 95–22899 Filed 9–13–95; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meetings:

Name of SEP: Adherence in the Childhood Asthma Management Program (Telephone Conference Call).

Date: September 26, 1995.

Time: 11:00 a.m.

Place: Rockledge II, Room 7178, 6701 Rockledge Drive, Bethesda, Maryland.

Contact Person: David Monsees, Ph.D., Rockledge II, Room 7178, 6701 Rockledge Drive, Bethesda, Maryland 20892–7924, (301) 435–0270.

Purpose/Agenda: To review and evaluate grant applications.

Name of SEP: Asthma Clinical Research Network: Minority Centers (Telephone Conference Call).

Date: September 26, 1995.

Time: 11:45 a.m.

Place: Rockledge II, Room 7178, 6701 Rockledge Drive, Bethesda, Maryland.

Contact Person: David Monsees, Ph.D., Rockledge II, Room 7178, 6701 Rockledge Drive, Bethesda, Maryland 20892–7924.

Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meetings due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Dieseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: September 6, 1995.

Susan K. Feldman,

Committee Management Officer, NIH .

[FR Doc. 95–22900 Filed 9–13–95; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice

is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Name of SEP: Chemistry and Related Sciences.
Date: October 16, 1995.
Time: 8:30 a.m.
Place: St. James Hotel, Washington, DC.
Contact Person: Dr. Edward Zapolski, Scientific Review Administrator, 6701 Rockledge Drive, Room 4168, Bethesda MD 20892, (301) 435–1725.

Name of SEP: Clinical Sciences.
Date: October 18–19, 1995.
Time: 8:00 a.m.
Place: Holiday Inn, Gaithersburg, MD.
Contact Person: Dr. Gopal Sharma, Scientific Review Administrator, 6701 Rockledge Drive, Room 4112, Bethesda MD 20892, (301) 435–1783.

Name of SEP: Clinical Sciences.
Date: November 2, 1995.
Time: 1:00 p.m.
Place: NIH, Rockledge II, Room 4112, Telephone Conference.
Contact Person: Dr. Gopal Sharma, Scientific Review Administrator, 6701 Rockledge Drive, Room 4112, Bethesda MD 20892, (301) 435–1783.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 8, 1995.

Susan K. Feldman,

Committee Management Officer, National Institutes of Health.

[FR Doc. 95–22892 Filed 9–13–95; 8:45 am]

BILLING CODE 4140–01–M

Office of Alternative Medicine; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Alternative Medicine Program Advisory Council on September 18, 1995, from 8 a.m. to recess and on September 19, 1995 from 8 a.m. to 12 noon in the Plaza II Conference Room of the Doubletree Hotel, 1750 Rockville Pike, Rockville, Maryland.

The meeting will be open to the public with attendance limited to space available. The purpose of the meeting will be to discuss current issues in complementary and alternative medicine research and activities of the Office of Alternative Medicine.

Ms. Beth Clay, Committee Management Liaison, Office of Alternative Medicine, National Institutes of Health, 6120 Executive Boulevard, Suite 450, Rockville, Maryland 20892–9904, phone (301) 594–1990, fax (301) 402–4741, E-Mail: bethclay@helix.nih.gov will furnish the meeting agenda, roster of committee members and substantive program information upon request. Any individual who requires special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Clay at the above location no later than September 11, 1995.

This notice is being published less than 15 days prior to the meeting due to difficulties encountered in finalizing the agenda and the need to proceed with the meeting as scheduled to address important issues in a timely manner.

Dated: September 6, 1995.

Susan K. Feldman,

Committee Management Officer, National Institutes of Health.

[FR Doc. 95–22910 Filed 9–13–95; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–805803

Applicant: Clyde Robinson, Saratoga Springs, N.Y.

The applicant requests a permit to import 2 pair Hawaiian ducks (*Anas wyvilliana*) from Dr. Peter Player, East Sussex, England for the purpose of enhancement through captive propagation.

PRT–806362

Applicant: John Ferre, Isla Verde Carolina, PR

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from the captive herd maintained by Mr. F. Bowker, Thornkloof, Grahamstown, South Africa for the purpose of enhancement of the survival of the species.

PRT–806434

Applicant: Herman Ferre Roig, Isla Verde Carolina, PR

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from the captive herd maintained by Mr. F. Bowker, Thornkloof, Grahamstown, South Africa for the purpose of enhancement of the survival of the species.

PRT–806355

Applicant: Kathryn Clark, Princeton Univ., Princeton, NJ

The applicant requests a permit to import tissue samples from captive-held Rodrigues fruit bats (*Pteropus rodricensis*) from the United Kingdom for the purpose of genetic research on the evolutionary origins and systematics of the species to enhance the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: September 8, 1995.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 95–22787 Filed 9–13–95; 8:45 am]

BILLING CODE 4310–55–P

Availability of the Technical/Agency Draft Recovery Plan for the Appalachian Elktoe for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a technical/agency draft recovery plan for the Appalachian elktoe (*Alasmidonta raveneliana*). This rare freshwater

mussel inhabits medium-sized creeks and rivers with cool, well-oxygenated, and moderate- to fast-flowing water. The Appalachian elktoe currently has a very fragmented, relict distribution but historically had a fairly wide distribution throughout the Upper Tennessee River system in western North Carolina and eastern Tennessee. Only two populations of the species are known to survive. One population occurs in the main stem of the Little Tennessee River in Swain and Macon Counties, North Carolina. The second population occurs in the Nolichucky River system. This population is restricted to scattered locations along a very short reach of the Toe River and the main stem of the Nolichucky River in Yancey and Mitchell Counties, North Carolina. The population on the Nolichucky extends downriver into Unicoi County, Tennessee. A single specimen of the Appalachian elktoe was also found in the Cane River, a major tributary to the Nolichucky River, in Yancey County, North Carolina. It has been reduced to a few short reaches of each of these streams, primarily as a result of impoundments and the general deterioration of water quality resulting from siltation and other pollutants contributed by poor land use practices. The Service solicits review and comments from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before December 13, 1995, to receive consideration by the Service.

ADDRESSES: Persons wishing to review the agency draft recovery plan may obtain a copy by contacting the Asheville Field Office, U.S. Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801 (Telephone 704/258–3939). Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. John Fridell at the address and telephone number shown above (Ext. 225).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, to establish criteria for recognizing the recovery levels for downlisting or delisting them, and to estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to the approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The primary species considered in this draft recovery plan is the Appalachian elktoe (*Alasmidonta raveneliana*). The area of emphasis for recovery actions is the upper Tennessee River system in the mountains of western North Carolina and eastern Tennessee. Habitat protection, reintroduction, and the preservation of genetic material are the major objectives of this recovery plan.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority: The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 8, 1995.

Robert R. Currie,

Acting Field Supervisor.

[FR Doc. 95–22935 Filed 9–13–95; 8:45 am]

BILLING CODE 4310–55–M

Notice of Availability of the Technical/ Agency Draft Recovery Plan for Cumberland Rosemary for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a technical/agency draft recovery plan for Cumberland rosemary (*Conradina verticillata*). This threatened species is presently known from only three populations: two of these are located in Tennessee and a third occurs in both Tennessee and Kentucky. Cumberland rosemary grows on sandy or gravelly stream banks, sandbars, and gravel/ boulder bars associated with floodplains or islands. There are 91 known colonies of the species; however, most colonies are small and are threatened by stream alternations that would change normal flooding patterns; activities that degrade water quality; and habitat destruction by campers, hikers, white-water enthusiasts, and off-road vehicles. The Service solicits review and comments from the public on this draft plan.

DATES: Comments on the technical/ agency draft recovery plan must be received on or before December 13, 1995, to receive consideration by the Service.

ADDRESSES: Persons wishing to review the technical/agency draft recovery plan may obtain a copy by contacting the Asheville Field Office, U.S. Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801 (Telephone 704/258–3939). Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available on requests for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Currie at the address and telephone number shown above (Ext. 224).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, to establish criteria for recognizing the recovery levels for downlisting or delisting them, and to estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of

recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to the approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

Th primary species considered in this draft recovery plan is Cumberland rosemary (*Conradina verticillata*). It is a small shrub in the mint family (Lamiaceae), known only from the banks of short reaches of three river systems in north-central Tennessee and adjacent Kentucky. The species is found within small areas of the following counties: Cumberland, Fentress, Morgan, Scott, and White Counties, Tennessee, and McCreary County, Kentucky. It is always found growing in close association with the floodplain of watercourses. Specific areas supporting the species include boulder bars, sand bars, gravel bars, terraces of sand on gradually sloping riverbanks and islands, and pockets of sand between large boulders on islands and stream banks. This species' distribution has probably been reduced by such factors as dam construction and the general deterioration of water quality resulting from silt and other pollutants contributed by coal mining, poor land use practices, and waste discharges. Many of these factors continue to impact the species and its habitat. Because the colonies inhabit only short river reaches, they are vulnerable to extirpation from accidental toxic chemical spills. Direct habitat destruction by recreational visitors to the species' habitat is a significant threat to its survival. Hikers, campers, white-water enthusiasts, and off-road-vehicle users all impact the species and its habitat. Habitat protection, searches for new populations, the implementation of appropriate management actions, the completion of biological and genetic studies, and the preservation of genetic material are the major objectives of this recovery plan.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority: The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 8, 1995.

Robert R. Currie,

Acting Field Supervisor.

[FR Doc. 95–22852 Filed 9–13–95; 8:45 am]

BILLING CODE 4310–55–M

Notice of Availability of the Agency Draft Recovery Plan for Cumberland Sandwort for Review and Comment

AGENCY: Fish and Wildlife Service. Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of an agency draft recovery plan for Cumberland sandwort (*Arenaria cumberlandensis*). This endangered species is known from five populations in Tennessee and Kentucky. It is restricted to sandstone ledges and rock houses in the Cumberland Plateau Province of south-central Kentucky and north-central Tennessee. Specialized habitat requirements, in combination with habitat alteration, are the primary limiting factors for the species. Threats to its continued existence include trampling of its habitat by recreational users and habitat alteration caused by timber harvesting on adjacent lands. The Service solicits review and comments from the public on this draft plan.

DATES: Comments on the agency draft recovery plan must be received on or before December 13, 1995, to receive consideration by the Service.

ADDRESSES: Persons wishing to review the agency draft recovery plan may obtain a copy by contacting the Asheville Field Office, U.S. Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801 (Telephone 704/258–3939). Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Currie at the address and telephone number shown above (Ext. 224).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, to establish criteria for recognizing the recovery levels for downlisting or delisting them, and to estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to the approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The primary species considered in this draft recovery plan is Cumberland sandwort (*Arenaria cumberlandensis*). The area of emphasis for recovery actions is the Cumberland Plateau Province of south-central Kentucky and north-central Tennessee. The species is currently known from four counties in Tennessee (Pickett, Scott, Fentress, and Morgan) and one county in Kentucky (McCreary). A majority of the sites are found in sandstone rock houses or on ledges or solution pockets on sandstone rock faces. All known sites are within the Big South Fork watershed of the Cumberland River. Habitat requirements include shade, moisture, relatively constant cool temperatures, and high humidity. *Arenaria cumberlandensis* is endangered directly and indirectly by human activities in and adjacent to its unique habitat. Significant threats include trampling by hikers, campers, picnickers, individuals rappelling down the sandstone cliffs, and ''pot hunters'' digging within rock houses for Native American artifacts. Some sites are potentially threatened by timber removal in or adjacent to the areas supporting the species. Increased sunlight on the plants and the

subsequent alteration of the moisture conditions would probably lead to extirpation of *Arenaria cumberlandensis* from the timbered area. Habitat protection, searches for new populations, the implementation of appropriate management actions, and the preservation of genetic material are the major objectives of this recovery plan.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority: The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 8, 1995.

Robert R. Currie,

Acting Field Supervisor.

[FR Doc. 95–22936 Filed 9–13–95; 8:45 am]

BILLING CODE 4310–55–M

Notice of Receipt of Applications for Approval

The following applicants have applied for approval to conduct certain activities with birds that are protected in accordance with the Wild Bird Conservation Act of 1992. This notice is provided pursuant to Section 112(4) of the Wild Bird Conservation Act of 1992, 50 CFR 15.26(c).

Applicant: Kevin M. Gorman, Director, AFA Red Siskin Recovery Project, Rochester, NY. The applicant wishes to establish a cooperative breeding program for the Red Siskin (*Carduelis cucullata*). Mr. Gorman wishes to be an active participant in this program with three other private individuals. The American Federation of Aviculture has assumed the responsibility for the oversight of the program.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420C, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420C, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: September 8, 1995.

Margaret Tieger,

Chief, Branch of Permits Office of Management Authority.

[FR Doc. 95–22842 Filed 9–13–95; 8:45 am]

BILLING CODE 4310–55–P

Bureau of Land Management

[ES–960–1910–00–4041; ES–047545, Group 94, Arkansas]

Notice of Filing of Plat of Survey; Arkansas

The plat of the dependent resurvey of a portion of the east boundary; a portion of the south boundary; a portion of the subdivisional lines; and the survey of the subdivision of certain sections; Township 15 North, Range 23 West, Fifth Principal Meridian, Arkansas, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on October 20, 1995.

The survey was requested by the National Park Service.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., October 20, 1995.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of $2.75 per copy.

Dated: September 5, 1995.

Corwyn J. Rodine,

Acting Chief Cadastral Surveyor.

[FR Doc. 95–22796 Filed 9–13–95; 8:45 am]

BILLING CODE 4310–GJ–P

[CA–942–5700–001]

Filing of Plats of Survey; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested state and local government officials of the latest filing of Plats of Survey in California.

EFFECTIVE DATE: Unless otherwise noted, filing was effective at 10:00 a.m. on the next federal work day following the plat acceptance date.

FOR FURTHER INFORMATION CONTACT: Lance J. Bishop, Acting Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), California State Office, 2800 Cottage Way, Room E–2845, Sacramento, CA 95825, 916–979–2890.

SUPPLEMENTARY INFORMATION: The plats of Survey of lands described below have been officially filed at the California State Office of the Bureau of Land Management in Sacramento, CA.

Mount Diablo Meridian, California

T. 1 S., R. 19 E.,
Supplemental plat of the NW¼ of section 11, accepted May 4, 1995, to meet certain administrative needs of the U.S. Forest Service, Stanislaus National Forest.

T. 10 N., R. 20 E.,
Supplemental plat of the NW¼ of section 2, accepted July 5, 1995, to meet certain administrative needs of the U.S. Forest Service, Toiyabe National Forest.

T. 10 S., R. 23 E.,
Dependent resurvey, (Group 1180) accepted July 5, 1995, to meet certain administrative needs of the U.S. Forest Service, Sierra National Forest.

T. 33 N., R. 2 E.,
Dependent resurvey and subdivision of section 3, (Group 1049) accepted July 10, 1995, to meet certain administrative needs of the U.S. Forest Service, Lassen National Forest.

T. 2 N., R. 14 E.,
Supplemental plat of the NE¼ of section 24, accepted July 24, 1995, to meet certain administrative needs of the BLM, Bakersfield District, Folsom Resource Area.

T. 13 S., R. 34 E.,
Dependent resurvey and subdivision of section 1, (Group 1175) accepted July 26, 1995, to meet certain administrative needs of the BIA, Central California Agency.

T. 40 N., R. 9 W.,
Dependent resurvey and subdivision of sections, (Group 1053) accepted July 26, 1995, to meet certain administrative needs of the U.S. Forest Service, Klamath National Forest.

San Bernardino Meridian, California

T. 16 S., R. 5 E.,
Supplemental plat of the SE¼ of section 6, accepted July 21, 1995, to meet certain administrative needs of the U.S. Forest Service, Cleveland National Forest.

All of the above listed survey plats are now the basic record for describing the lands for all authorized purposes. The survey plats have been placed in the open files in the BLM, California State Office, and are available to the public as a matter of information. Copies of the survey plats and related field notes will be furnished to the public upon payment of the appropriate fee.

Dated: September 5, 1995.

Lance J. Bishop,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 95–22797 Filed 9–13–95; 8:45 am]

BILLING CODE 4310–40–M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0046); Washington, D.C. 20503, telephone (202) 395–7340, with copies to Chief, Engineering and Standards Branch; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: Well Summary Report, Form MMS–125.

OMB Approval Number: 1010–0046.

Abstract: Respondents submit Form MMS–125 to the Minerals Management Service's (MMS) District Supervisors to be evaluated and approved or disapproved for the adequacy of the equipment, materials, and/or procedures which the lessee plans to use to safely perform drilling, well-completion, well-workover, and well-abandonment operations.

This form is necessary to enable MMS to ensure safety of operations; protection of the human, marine, and coastal environments; conservation of the natural resources in the Outer Continental Shelf (OCS); prevention of waste; and protection of correlative rights with respect to oil, gas, and sulphur operations in the OCS.

Bureau Form Number: Form MMS–125.

Frequency: On occasion.

Description of Respondents: OCS oil, gas, and sulphur lessees.

Annual Burden Hours: 2,579.

Bureau Clearance Officer: Arthur Quintana, (703) 787–1239.

Dated: August 9, 1995.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 95–22798 Filed 9–13–95; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION REVIEW COMMITTEE: MEETING

AGENCY: National Park Service, Department of the Interior

ACTION: Notice of meeting of the Native American Graves Protection and Repatriation Review Committee, Correction

This notice corrects the notice published in the Federal Register on May 31, 1995.

A meeting of the Native American Graves Protection and Repatriation Act Review Committee will be held on October 16, 17, and 18, 1995, in Anchorage, Alaska. The notice published May 31st stated the final day of the meeting may be held in the Eagan Center, Anchorage, AK, in conjunction with the Alaska Federation of Natives annual convention. The location for the final day of the meeting has been changed to the Chart Room in the Anchorage Hilton, 500 West 3rd Avenue, Anchorage, Alaska, 99510–9953. This does not affect the location for the first two days of the meeting which will be held in the Dillingham Room in the Anchorage Hilton, as stated in the earlier notice.

The notice published May 31st stated that comments to the Committee's draft recommendations regarding the disposition of culturally unidentifiable human remains in museums and Federal collections and public comment and discussion of the statute's application in Alaska would be on the meeting's agenda. The agenda has been expanded to include the Committee's review of written evidence on two disputes: the first dispute involves the Oneida Tribe of Indians of Wisconsin, the Oneida Indian Nation, and the Field Museum of Natural History. The second dispute involves Betty J. Washburn and Charles Junkerman, representatives of Chief Satanta (White Bear) Descendants, the University of California, Berkeley, and the Phoebe A. Hearst Museum of Anthropology.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Persons will be accommodated on a first-come, first-served basis. Due to the presence of Alaska Federation of Natives delegates, hotel rooms in Anchorage may be scarce. Any member of the public may file a written statement concerning the matters to be discussed with Dr. Francis P. McManamon, Departmental Consulting Archeologist.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact Dr. Francis P. McManamon, Departmental Consulting Archeologist, Archeological Assistance Division, National Park Service, P.O. Box 37127–suite 210, Washington, DC 20013–7127, Telephone (202) 343–4101. Draft summary minutes of the meeting will be available for public inspection about eight weeks after the meeting at the office of the Departmental Consulting Archeologist, room 210, 800 North Capital Street, Washington, DC.

Dated: September 7, 1995

Veletta Canouts,

Acting Departmental Consulting Archeologist and Acting Chief, Archeology and Ethnography Program.

[FR Doc. 95–22830 Filed 9–13–95; 8:45 am]

BILLING CODE 4310–70–F

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Tawanna Glover-Sanders, Interstate Commerce Commission, Section of Environmental Analysis, Room 3219, Washington, DC 20423, (202) 927–6203.

Comments on the following assessment are due 15 days after the date of availability: None.

Comments on the following assessment are due 30 days after the date of availability:

AB–6 (Sub-No. 367X), Abandonment of a line of railroad between BN M.P. 34.20 to BN M.P. 135.18 and BN M.P. 126.70 and BN M.P. 139.10 in Pittsburg, In Crawford County, Kansas. EA available 9/8/95.

AB–8 (Sub-No. 31X), The Denver and Rio Grande Western Railroad Company—Abandonment

Exemption—1.55 miles in Salt Lake County, Utah. EA available 9/8/95.

Vernon A. Williams,

Secretary.

[FR Doc. 95–22837 Filed 9–13–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32490]

Gateway Eastern Railway Company; Trackage Rights Exemption; Missouri Pacific Railroad Company, The Alton & Southern Railway Company, and Consolidated Rail Corporation

Missouri Pacific Railroad Company (MP), The Alton & Southern Railway Company (A&S), and Consolidated Rail Corporation (Conrail) have agreed to grant Gateway Eastern Railway Company (GWER) trackage rights over approximately 14.03 miles of their respective rail lines between Mitchell and East St. Louis, IL, as follows: (1) Over 820 feet of MP rail line near milepost 275.60 at Lenox Tower in Mitchell; (2) over 11.07 miles of A&S rail line between milepost 21.00 at Lenox Tower in Mitchell and milepost 9.93 at ''HN'' Cabin in Canteen Township, IL; and (3) over 2.8 miles of Conrail rail line between milepost 234.0± at ''HN'' Cabin and milepost 236.8± at Willows Tower in East St. Louis, IL. The trackage rights became effective on of after September 1, 1995.

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Thomas J. Litwiler, Oppenheimer, Wolff and Donnelly, Two Prudential Plaza, 180 North Stetson Avenue, Chicago, IL 60601.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: September 8, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–22836 Filed 9–13–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division, Suite 850, WCTR, Washington, DC 20530.

New Collection

(1) Application for Participation in Demonstration Project concerning Electronic Options for Processing Forms I–9.

(2) N/A. Immigration and Naturalization Service. United States Department of Justice.

Primary: Business or other for-profit. Other: Individuals or households, Not-for-profit institutions, Farms, Federal Government, and State, Local or Tribal Government. The Immigration and Naturalization Service is inviting applications from businesses, consortium of businesses, or other employing entities interested in participating in a demonstration project dealing with the electronic production and/or storage of Rooms I–9, Employment Eligibility Verification Form.

(4) 100 annual respondents, 23 hours per response.

(5) 2,300 annual burden hours.

(6) Not applicable under section 3504 (h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: September 8, 1995.

Kathleen T. Albert,

Acting Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–22827 Filed 9–13–95; 8:45 am]

BILLING CODE 4410–10–M

Office of the Attorney General

[AG Order No. 1987–95]

RIN 1105–AA36

Proposed Guidelines for the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act

AGENCY: Department of Justice.

ACTION: Proposed Guidelines; Notice of Reopening of Comment Period.

SUMMARY: On April 12, 1995, the United States Department of Justice (DOJ) published Proposed Guidelines to implement the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. These Proposed Guidelines may be found at 60 FR 18613, April 12, 1995. The original 90 day comment period expired on July 11, 1995.

The majority of states already have some form of sex offender registration. It is likely that most states will have to make at least minor changes to their existing systems in order to comply with the statutory requirements outlined in these guidelines. To ensure that the public has ample opportunity to fully review and comment on the proposed guidelines, we are reopening the comment period and will accept comments for an additional 45 days after publication of this notice.

DATES: Comments must be received by October 30, 1995.

ADDRESSES: Comments may be mailed to Bonnie J. Campbell, Office of the

Associate Attorney General, U.S. Department of Justice, Tenth and Pennsylvania Avenue, NW, Washington, DC 20530, 202–616–8894

Dated: September 5, 1995.

Janet Reno,

Attorney General.

[FR Doc. 95–22799 Filed 9–13–95; 8:45 am]

BILLING CODE 4410–01–M

Immigration and Naturalization Service

[INS No. 1725R–95]

Citizens Advisory Panel Meeting

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of meeting.

SUMMARY: The Immigration and Naturalization Service (Service) in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2) and 41 CFR 101–6.1001–101–6.1035 (1992), has established a Citizens' Advisory Panel (CAP) to provide the Department of Justice with recommendations on ways to reduce the number of complaints of abuse made against employees of the Service, and to minimize or eliminate the causes for those complaints. This notice announces the CAP's forthcoming meeting and the agenda for the meeting.

DATES: October 25–27, 1995 at 8:00 a.m.

ADDRESSES: Wyndham Greenspoint Hotel, 12400 Greenspoint Drive, Salon A Meeting Room, Houston, TX 77060.

FOR FURTHER INFORMATION CONTACT: Susan B. Wilt, CAP Designated Federal Official (DFO), Immigration and Naturalization Service, Room 3260, Chester Arthur Building, 425 I Street NW., Washington, DC 20536, Telephone (202) 616–7072.

SUPPLEMENTARY INFORMATION: Pursuant to the charging language of the Senate Appropriations Committee Report 102–331 on the FY 1993 Budget for the Immigration and Naturalization Service, Department of Justice, the Service established a Citizens' Advisory Panel for the purpose of providing recommendations to the Attorney General on ways to reduce the number of complaints of abuse made against employees of the Service and, most importantly, to minimize or eliminate the causes for those complaints. The CAP is authorized by the Attorney General to (1) accept and review civilian complaints made against Service employees, and (2) review the systems and procedures used by the Service for responding to such complaints. (February 11, 1994 at 59 FR 6658)

Summary of Agenda

The principal purpose of the meeting will include presentations and a general discussion of training development and education, the current training curriculum, and training policies and procedures for Service employees.

Public Participation

The CAP meeting is open to the interested public, but limited to the space available. Persons wishing to attend should notify the CAP DFO at least 2 days prior to the meeting by contacting the DFO at (202) 514–2373. After October 20, 1995, contact Roberto Stanley at the Houston District INS Office at (713)–847–7950. Any hearing-challenged individuals wishing to attend please contact the DFO by October 19, 1995 so services can be arranged.

Any member of the public may file a written statement with the CAP DFO before the meeting. Materials submitted at the meeting, should be submitted in 20 copies. The CAP Chairperson will permit members of the public to present oral statements at the meeting with prior registration.

Minutes of the meeting will be available on request from the CAP DFO.

Dated: September 7, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 95–22909 Filed 9–13–95; 8:45 am]

BILLING CODE 4410–10–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95–087]

NASA Advisory Council, NASA–NIH Advisory Committee on Behavioral and Biomedical Research; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, NASA–NIH Advisory Committee on Behavioral and Biomedical Research.

DATES: September 28, 1995, 8:30 a.m. to 5:00 p.m.; and September 29, 1995, 8:00 a.m. to 12:00 p.m..

ADDRESSES: Room 9H40, NASA Headquarters, 300 E Street, SW, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. Arnauld Nicogossian, Code U, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0215.

SUPPLEMENTARY INFORMATION: The meeting will be closed to the public on Thursday, September 28, 1995, from 4:30 p.m. to 5:00 p.m. in accordance with 5 U.S.C. 522b(c)(6), to allow for discussion on qualifications of individuals being considered for membership to the Committee. The remainder of the meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Review of the Office of Life and Microgravity Sciences and Applications Status
—Status of NASA–NIH Activities
—Neurolab Science
—Left Ventricle Assist Device
—International Space Station
—Digital Mammography
—New Science Policy
—Committee Discussion Regarding Future Activities

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: September 7, 1995.

Danalee Green,

Chief, Management Controls Office, National Aeronautics and Space Administration.

[FR Doc. 95–22888 Filed 9–13–95; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation

and recommendation on applications for financial assistance under the National Foundation on the Arts the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* October 2–3, 1995.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Elementary and Secondary Education in the Humanities, submitted to the Division of Education Programs, for projects beginning after December 1995.

2. *Date:* October 2–3, 1995.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review proposals submitted to the September 15 deadline in Higher Education Humanities Focus Grants Program, submitted to the Division of Education, for projects beginning after April 1996.

3. *Date:* October 5–6, 1995.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review proposals submitted to the September 15 deadline in Higher Education Humanities Focus Grants Program, submitted to the Division of Education, for projects beginning after April 1996.

4. *Date:* October 11–12, 1995.
Time: 9:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review proposals submitted to the September 15 deadline in Higher Education Humanities Focus Grants Program, for projects beginning after April 1996.

5. *Date:* October 11–12, 1995.
Time: 9:00 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications for Elementary and Secondary Education in the Humanities, submitted to the Division of Education Programs, for projects beginning after December 1995.

6. *Date:* October 13, 1995.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for the National Heritage Preservation Program Projects, submitted to the Division of Preservation and Access, for projects beginning after May 1, 1996.

7. *Date:* October 20, 1995.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for the National Heritage Preservation Program Projects, submitted to the Division of Preservation and Access, for projects beginning after May 1, 1996.

8. *Date:* October 20, 1995.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review Editions Program applications in History, submitted to the Division of Research Programs, for projects beginning after May 1, 1996.

9. *Date:* October 23, 1995.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review Editions Program applications in Literature, the Arts and Philosophy, submitted to the Division of Research for projects beginning after May, 1996.

10. *Date:* October 24, 1995.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Library and Archival Preservation and Access Projects, submitted to the Division of Preservation and Access, for projects beginning after May, 1996.

11. *Date:* October 25, 1995.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review Translations and Editions Program applications in Studies of Africa and the Americans, submitted to the Division of Research Programs, for projects beginning after May, 1996.

12. *Date:* October 27, 1995.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: The meeting will review applications for the Documentation of Humanities Collections Projects, submitted to the Division of Preservation and Access, for projects beginning after May 1, 1996.

13. *Date:* October 30, 1995.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review Translations Program applications in Middle Eastern and Asian Studies, submitted to the Division of Research Programs, for projects beginning after May 1, 1996.

14. *Date:* October 30, 1995.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Library and Archival Preservation and Access Projects, submitted to the Division of Preservation and Access, for projects beginning after May 1, 1996.

David C. Fisher, Jr.

Advisory Committee Management Officer.

FR Doc. 95–22843 Filed 9–13–95; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Antarctic Conservation Act of 1978; Notice of Permit Modification Request Received

AGENCY: National Science Foundation.

ACTION: Notice of permit modification requests received under the Antarctic Conservation Act of 1978, P.L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of a permit modifications requested.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit modification by October 12, 1995. Permits may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 306–1031.

DESCRIPTION OF PERMIT MODIFICATIONS REQUESTED:

1. The Foundation issued a permit (93–00B) to Dr. Wesley M. Weathers on November 2, 1993. The issued permit allows for the capture and release of seven hundred sixty-six Cape Petrels (*Daption capense*) and Snow Petrels (*Pagodroma nivea*) to conduct measurements over three consecutive breeding seasons. The project focuses on the feeding ecology and energetics of these two common surface-nesting petrels.

The permit holder requests to modify the permit to allow for the collection two additional species of petrels, Antarctic petrels (*Thalassoica antarctica*) and Southern Fulmars (*Fulmarus glacialoides*). The research protocol for these two additional species will be identical to that used on the Cape Petrels and Snow Petrels and samples sizes will also be identical. This modification was prompted by a request from the Australian Antarctic Division to have the permit holder to expand the scope of the research program to include the two additional species.

LOCATION: Prydz Bay, East Antarctica.

DATES: October 15, 1995-March 31, 1996.

2. The Foundation issued a permit (95–013) to Ron Naveen on September 7, 1994. The issued permit allows for the entry into Sites of Special Scientific Interest to catalogue the physical and biological characteristics of more than 60 locations visited in the Antarctic Peninsula. Cataloguing efforts include the inventory, marking, or photographing sites or to demarcate discrete groups, colonies, or plots of penguins, flying seabirds, or terrestrial plans.

The permit holder requests to modify the permit to allow for the collection of culmen measurements from penguin chicks in January/February. These measurements will help to more precisely determine the age of chicks and assist in determining productivity at the site. Culmen measurements will be taken at small creches on an opportunistic basis.

LOCATION: Various visitor sites in the Antarctic Peninsula Region, including a possible stop over at the research site at Admiralty Bay (SSSI #8).

DATES: October 15, 1995–March 1, 1996.

Nadene G. Kennedy,

Permit Office, Office of Polar Programs.

[FR Doc. 95–22876 Filed 9–13–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—#1194.

Date and Time: October 4, 1995, 8:00 a.m.-5:00 p.m.

Place: Room 340 and 360, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Darryl Gorman, SBIR Office, (703) 306–1390, or Ulrich Strom, MPS, (703) 306–1832, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Phase I Small business proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 11, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–22877 Filed 9–13–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—#1194.

Date and Time: October 6, 1995, 8:00 a.m.-5:00 p.m.

Place: Room 320, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contract Person: Ritchie Coryell, Program Director, SBIR Office, (703) 306–1390 or Deborah Crawford, Program Director, ECS, (703) 306–1339.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Phase I Small Business proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the government in the Sunshine Act.

Dated: September 11, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–22878 Filed 9–13–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—#1194.

Date and Time: October 2, 1995, 8:00 a.m.–5:00 p.m.

Place: Room 310, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Charles Hauer, SBIR Office, (703) 306–1390, or Debbie Kaminski, Program Director, CTS, (703) 306–1371, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Phase I Small Business proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b (c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 11, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–22879 Filed 9–13–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—#1194.

Date and Time: October 2, 1995, 8:00 a.m.–5:00 p.m.

Place: Room 360, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Ritchie Coryell, SBIR Office, (703) 306–1390, or Marvin White, Program Director, ECS, (703) 306–1339, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Phase I Small Business proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 11, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–22880 Filed 9–13–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—#1194.

Date and Time: October 3, 4, 1995, 8:00 a.m.–5:00 p.m.

Place: Room 320, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Ritchie Coryell, SBIR Office, (703) 306–1390, or Leonard Johnson, Program Director, GEO, (703) 306–1559, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Phase I Small Business proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 11, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–22881 Filed 9–13–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation-#1194.

Date and Time: October 6, 1995, 8:00 a.m.-5:00 p.m.

Place: Room 380, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Ritchie Coryell, SBIR Office, (703) 306–1390, or Radhakishan Baheti, Program Director, ECS, (703) 306–1339, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Phase I Small Business proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 11, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–22882 Filed 9–13–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—#1194.

Date and Time: October 6, 1995, 8:00 a.m.–5:00 p.m.

Place: Room 365, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Ritchie Coryell, SBIR Office, (703) 306–1390, or Chen-Ching Liu, Program Director, ECS, (703) 306–1339, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Phase I Small Business proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 11, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–22883 Filed 9–13–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—#1194.

Date and Time: October 6, 1995, 8:00 a.m.-5:00 p.m.

Place: Room 340 and 360, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Darryl Gorman, SBIR Office, (703) 306–1390, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Phase I Small Business proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 11, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–22884 Filed 9–13–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—#1194.

Date and Time: October 2, 1995, 8:00 a.m.–5:00 p.m.

Place: Room 340, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Ritchie Coryell, Program Director, SBIR Office, (703) 306–1390 or Marvin White, Program Director, ECS, (703) 306–1139.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Phase I Small Business proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 11, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–22885 Filed 9–13–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel In Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Geosciences (1756).

Date: October 4 & 5, 1995.

Time: 8:00 a.m. to 6:00 p.m. each day.

Place: IRIS Data Management Center, 1408 NE 45th Street, Seattle WA 98105–4505.

Type of Meeting: Closed.

Contact Person: Dr. Daniel F. Weill, Program Director, Instrumentation & Facilities Program, Division of Earth Sciences, Room 785, National Science Foundation, Arlington, VA, (703) 306–1558.

Purpose of Meeting: To provide advice and recommendations concerning the proposal submitted to NSF by the Incorporated Research Institutions for Seismology (IRIS).

Agenda: To review and evaluate the IRIS proposal.

Reason for Closing: The proposal being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposal. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 11, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–22886 Filed 9–13–95; 8:45 am]

BILLING CODE 7555–01–M

POSTAL RATE COMMISSION

[Docket No. A95–18; Order No. 1074]

Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued September 8, 1995.

Before Commissioners: Edward J. Gleiman, Chairman; W.H. ''Trey'' LeBlanc III, Vice-Chairman; George W. Haley; H. Edward Quick, Jr.; Wayne A. Schley.

In the Matter of: Hetland, South Dakota 57244 (Fern Melstad, Petitioner).

Docket Number: A95–18
Name of Affected Post Office: Hetland, South Dakota 57244
Name(s) of Petitioner(s): Fern Melstad
Type of Determination: Consolidation
Date of Filing of Appeal Papers: August 28, 1995

Categories of Issues Apparently Raised:

1. Effect on postal services [39 U.S.C. 404(b)(2)(C)].
2. Effect on the community [39 U.S.C. 404(b)(2)(A)].

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. 404(b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

The Commission Orders

(a) The Postal Service shall file the record in this appeal by September 12, 1995.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Margaret P. Crenshaw,

Secretary.

Appendix

August 28, 1995
  Filing of Appeal letter
September 8, 1995
  Commission Notice and Order of Filing of Appeal
September 22, 1995
  Last day of filing of petitions to intervene [see 39 C.F.R. 3001.111(b)]
October 2, 1995
  Petitioner's Participant Statement or Initial Brief [see 39 C.F.R. 3001.115 (a) and (b)]
October 23, 1995
  Postal Service's Answering Brief [see 39 C.F.R. 3001.115(c)]
November 7, 1995
  Petitioner's Reply Brief should Petitioner choose to file one [see 39 C.F.R. 3001.115(d)]
November 14, 1995
  Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 C.F.R. 3001.116]
December 26, 1995
  Expiration of the Commission's 120-day decisional schedule [see 39 U.S.C. 404(b)(5)]

[FR Doc. 95–22790 Filed 9–13–95; 8:45 am]

BILLING CODE 7710–FW–P–M

POSTAL SERVICE

Manifest Analysis and Certification (MAC)

AGENCY: Postal Service.

ACTION: Notice of program.

SUMMARY: The U.S. Postal Service proposes to implement a voluntary annual certification program that evaluates the accuracy of certain manifest mailing system software products that calculate postage payment for specific mail class and rate categories.

To ensure the most effective design and implementation of the proposed program, the Postal Service is seeking comments from developers of manifest software products, users of such products, and other interested parties.

DATES: Comments must be received on or before October 16, 1995.

ADDRESSES: Written comments should be mailed or delivered to the Manager, Business Mail Acceptance, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 8430, Washington, DC 20260–6808. Copies of all written comments will be available at the above address for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Cheryl Beller, (202) 268–5166, or Tom Amonette, (317) 464–6599.

SUPPLEMENTARY INFORMATION: Manifest mailing systems have been used for several years to calculate and document postage for mailings of identical- and/or nonidentical-weight mailpieces paid by permit imprints. Mailers rely on the computer software of these systems to accurately list the mailpieces by unique identification and to calculate individual postage rates and the total postage owed for the mailing of those pieces.

In April 1993, the Postal Service redesigned the manifest mailing system program to make it more flexible for mailers. These manifesting standards are described in USPS Publication 401, Guide to the Manifest Mailing System. There is no standardized process to approve manifest mailing software products for quality and accuracy. To

ensure such, the approval process occurs at each site where a mailer installs a system. This process is administered by the Postal Service at the district level by the manager of Customer Service Support and at the headquarters level by the manager of the rates and classification service center serving that district.

Many vendors of manifest mailing software have expressed concern that their products are quickly approved for mailers at some sites but delayed at other sites. These vendors have requested a standardized software approval process from site to site, similar to the process currently used for presort software and address matching software.

To that end, the Manifest Analysis and Certification (MAC) program is being proposed. The Postal Service does not propose that the use of MAC-certified software be mandatory for calculating postage with a manifest mailing system. Instead, this program will be voluntary and open to all eligible developers of manifest mailing software products that prepare and document manifest mailings according to the standards in the Domestic Mail Manual (DMM), the International Mail Manual (IMM), and USPS Publication 401, Guide to the Manifest Mailing System. The program will be available to test products configured for personal, midrange, or mainframe computers. Certification will assure users of MAC-certified products that the software, if used properly, will perform its intended function according to Postal Service standards in the DMM, the IMM, and USPS Publication 401, Guide to the Manifest Mailing System. Certification will also ensure that Postal Service facsimile forms and other supporting mailing documentation generated by such software have been evaluated and approved.

Mailers will significantly benefit from the MAC program through a simplified and standardized application and approval process for their manifest mailing systems. Currently, the relevant software and the documents produced must be tested and approved at each implementation site. Under the MAC program, each certified software version will be preapproved for implementation and will not require site-by-site testing and approval. If a mailer uses certified software, the approving post office will not be required to validate its effectiveness and accuracy. The post office approval of the system will be limited to a review that ensures that the mailer has installed the system properly and implemented effective quality control procedures.

Definitions

For purposes of MAC certification, ''eligible manifest mailing software product developers'' are those firms that develop a manifest mailing software product for commercial sale or use. Initially, MAC certification will not be available for manifest mailing software developed by companies for in-house use only; however, those products might be included during a later phase of the program.

A ''manifest mailing software product'' is a complete set of computer program modules that accurately list manifested mailpieces and correctly calculate postage for all pieces included on the manifest, according to the standards in the DMM or IMM for one or more classes and rates of mail. The software must produce a manifest and facsimile mailing statements and other USPS forms as required by DMM or IMM standards for the services requested.

Categories of Mail Under MAC

During the initial phase of the MAC program, only software generating itemized single-piece domestic and international mail manifests will be tested and certified. The program will be expanded later to include bulk-rate itemized and batch-processed manifests.

Application and Certification Process

Eligible manifest mailing software product developers will apply for MAC certification of their products in specific categories or package groups. (The list of certification package groups is shown in the tables that follow.) On receipt of the application, the Postal Service will send the applicant the appropriate electronic test file of information describing the pieces in the test mailing for which postage is to be calculated. The software developer will run the test file through the developer's software and print documentation that will list the mailpieces, report the postage for each mailpiece and the total postage owed for the entire mailing, and produce facsimile mailing statements and other required documentation.

The developer will return the generated documentation, along with the original test file, to the USPS National Customer Support Center (NCSC) within a specified period. For the category tested (basic or optional), the Postal Service will evaluate the accuracy of the documentation (that is, the listing of mailpieces, classes, rates, and postage). In addition, the accuracy, format, and content of facsimile mailing statements and any other USPS form (if applicable) will be evaluated.

If the Postal Service determines that the developer's manifest mailing product meets the applicable standards, the developer will be issued a MAC certificate describing the package and options (see following section and tables) for which the product has been certified. The certification will be valid for 1 year, or until the conclusion of the next MAC testing period. The initial MAC testing period will be from November 1995 through January 1996, as further detailed in this notice. Subsequent test periods will begin in August and end in December of the same year.

Certification Package Options

The Postal Service proposes to test and certify manifest mailing software in specific categories (package groups). To be MAC-certified, vendors must, at a minimum, accurately manifest the specific class and rate categories shown in the following table ''Basic Package.'' Optional certification categories will be available for those vendors who offer a greater range of manifest capabilities, as shown in the tables under ''Optional Packages.'' To be certified for a specific package (either basic or optional), the manifest mailing software product must accurately calculate postage and applicable fees; moreover, it must produce required documentation for each class, rate, and processing category listed in that package. The following tables describe the basic package and optional packages that will be tested and certified. All categories in each package are required for certification status for that package.

Single-Piece Rate Mail Certification Packages: Basic and Optional

Basic Package

First-Class Mail (1 to 11 ounces) [1]
Fourth-Class Bound Printed Matter
Fourth-Class Library Rate
Fourth-Class Parcel Post (Intra-BMC)
Fourth-Class Parcel Post (Inter-BMC)
Priority Mail
Priority Mail Flat Rate
Single-Piece Third-Class Mail [1]
Special Fourth-Class Mail

Note: Computerized mailing statement facsimiles are required for all classes and rates.

[1] Must calculate nonstandard surcharge when applicable.

Optional Packages

Option 1: Fourth-Class Mail

Parcel Post Destination Bulk Mail Center (DBMC) [1]

[1] Must calculate nonstandard surcharge when applicable.

Option 2: Special Services

Certified
COD (collect on delivery)
Insured
PAL (parcel air lift)
Registered With Insurance
Registered Without Insurance
Restricted Delivery
Return Receipt [1]
Return Receipt for Merchandise [1]
Special Delivery
Special Handling

Note: Computerized PS Form 3877 facsimiles are required for these services.

[1] Must calculate fee for signature and date service and fee for signature, date, and delivery address service.

Option 3: International Mail

Air
Letter
Postcard
Air and Surface
Books and Sheet Music
M–Bag
Parcel Post
Printed Matter
Small Packets

Note: Computerized international mailing statement facsimiles are required.

Option 4: International Special Services

Insured
Registered
Return Receipt

Note: Computerized PS Form 3877 facsimiles are required for these services.

1996 Certification Test Period

All vendors desiring to have their software certified for 1996 must submit their applications on or after November 1, 1995; moreover, they must complete the test files (or any retest file) and return the answered test files by the closing date of January 31, 1996. Test files received and evaluated after that date will be assessed an out-of-cycle fee (see below).

Application Materials

To apply for MAC approval, eligible manifest mailing software product developers will request an order form and technical guide from the following address: ATTN MAC Program Department, National Customer Support Center, US Postal Service, 6060 Primacy Pky Ste 201, Memphis TN 38188–0001.

The form and guide may also be ordered by telephone at 1–800–331–5746. Only one form will be necessary, regardless of the number of manifest packages for which application is being made.

MAC Test Files

The MAC test files for each package contain a specific number of records that will describe the type and destination of a specific mailpiece. Each record will include:

- Addressee's name.
- Delivery address (error-free).
- City and state.
- ZIP Code.
- Class of mail.
- Processing category (machinable or nonmachinable for parcels).
- Weight (in pounds and ounces).
- Special service (if applicable to certification package).
- Dollar value (for special services such as COD, insured, or registered).
- Piece identification number (ID #).
- Country code (for international mail).

The test files will be configured in the media listed in the table below.

Magnetic tape	Cartridge	Diskette
6250 BPI EBCDIC 6250 BPI ASCII 1600 BPI EBCDIC 1600 BPI ASCII	IBM 3480 38K	3½″, 1.44 Megabyte MS–DOS 5¼″, 1.2 Megabyte MS–DOS

Processing Test Files and Providing Documentation

Once received, the developer will process the test files at their location with the manifest mailing product for each manifest package being examined. The developer will generate hard-copy documentation to support the accuracy of the manifest listing of the mailpieces by identification number and the correct postage payment for those pieces. This documentation will include:

- An itemized manifest listing (formatted as described in USPS Publication 401, Guide to the Manifest Mailing System).
- Facsimile mailing statements, summarizing the postage payment by rate and by total postage for each class of mail.
- PS Form 3877, Firm Mailing Book for Accountable Mail (if applicable for mailpieces with special services).
- Sample address labels (if printed by the system), showing the correct permit imprint for class and rate, unique identification number, and any applicable endorsement.

Evaluating MAC Tests

The Postal Service will evaluate the required hard-copy reports returned by the software product developer. This evaluation will focus on the accuracy, content, and clarity of the manifest listing format; the accuracy of postage and applicable fees for special services for each individual mailpiece and for total postage and fees; and the accuracy and format of facsimile mailing statements, PS Forms 3877 (if applicable), and address labels printed by the system.

More than one answer can be right for a particular test question. For example, a test question might indicate an insured mailpiece with a dollar value over the maximum dollar value allowed. The answer might be to assign either no insurance to that piece or insurance for the highest allowable value. Multiple correct answers will be accepted based on current DMM or IMM standards applicable to the particular test question. To be MAC-certified, the results must be in complete accord with the mail classification standards in the DMM and IMM and with the documentation standards in USPS Publication 401, Guide to the Manifest Mailing System, applicable at the time of the test.

MAC Certification

Upon successful test evaluation, developers will be contacted by the Postal Service in writing and issued a MAC certificate. It will note the specific software tested, a description of the package certified, and the dates of certification and expiration. At the conclusion of the test period, a list of MAC-certified manifest mailing software product developers will be published in February 1996, and in January of each following year, in the Postal Bulletin or other publication. The list will include the developer's name, approved product names, version numbers, certified packages, and a company contact name and telephone number. Vendor software not certified before January 31, 1996, or before December 31 of following years, will not be included.

MAC certification will be valid for 1 year or until the next MAC cycle. For those choosing to test during the normal test cycle, MAC certification will be valid from February 1 to December 31, 1996, for the initial MAC cycle and from January 1 to December 31 in following years. Out-of-cycle MAC certifications will expire at the end of the next normal test cycle (for example, a certification obtained in June 1996 will expire in December of the same year).

MAC Recertification

If a manifest mailing software product developer makes significant changes to its product within the 12 months following certification, MAC certification will not remain valid. Developers initiating such product changes must apply for recertification

for this modified product. Examples of a significant change are a key alteration of the product's basic mailpiece listing and postage calculation logic; a major change in the content, layout, format, or availability of computer-generated documentation or facsimiles; or a modification that results in significant differences in software operator use.

Some software changes will not be significant enough to require recertification. However, whenever any change is made to a previously certified product, MAC-certified manifest mailing software product developers will be required to notify the Postal Service to determine whether recertification is necessary. To accommodate mailing industry needs to expedite the release of improved products, the Postal Service will provide a toll-free telephone number to inform developers whether the changes will warrant recertification.

DMM- or IMM-Initiated MAC Cycle

Significant changes in manifest mailing preparation standards might require manifest mailing software product developers to modify their products enough to trigger a recertification or a DMM- or IMM-initiated MAC cycle. To provide time for recertification, the Postal Service will attempt to delay implementation of significant changes to manifest mailing standards (those deemed significant enough to require recertification) until 120 days after the final date of notice of the change, whenever possible. (Some changes, such as those resulting from congressional action or Postal Rate Commission proceedings, may require more immediate implementation.)

If the Postal Service conducts MAC testing out of the normal cycle (October 1 through December 31) to accommodate such DMM or IMM changes, manifest mailing software products tested and certified during this period will maintain certification for 1 year beyond the next normal test period. For instance, if a DMM change takes effect May 1996, a manifest mailing product that was MAC-certified in July 1996 (out of cycle to meet the new standard) will be issued a MAC certificate valid from July 1996 to December 1997 (unless further DMM or IMM changes warranted significant software updating).

Certification Fees

Participation in the MAC program will be free of charge during the normal testing cycle and in those instances when a DMM- or IMM-initiated MAC cycle is conducted. A fee of $250.00, however, will be charged for those participating in the MAC program outside the normal test cycle.

MAC Test Failures

Participants will receive notification of errors during MAC test evaluations so that retesting can be done within the normal MAC cycle. The first two attempts for a specific category will be free of charge. All subsequent certification attempts will be charged the out-of-cycle fees.

Standardization of Formats and Test Results

The Postal Service does not propose to mandate the standardization of documentation, except to the extent required in USPS Publication 401, Guide to the Manifest Mailing System. The Postal Service believes, however, that voluntary standardization would enhance the approval and certification process and simplify the acceptance of manifest mailings.

In the future, the Postal Service will offer the option for the manifest mailing product developers to return manifest test files in an electronic file structure. This will allow the test to be analyzed and graded electronically which will speed the approval process and also make it easier to accept manifests electronically at business mail entry units. This electronic file format will be developed in the near future. Although, not a specific part of this proposal notice, the Postal Service requests comments on this issue.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 95–22889 Filed 9–13–95; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36200; International Series Release No. 851]

List of Foreign Issuers Which Have Submitted Information Required by the Exemption Relating to Certain Foreign Securities

September 7, 1995.

Foreign private issuers with total assets in excess of $5,000,000 and a class of equity securities held of record by 500 or more persons, of which 300 or more shareholders reside in the United States, are subject to registration under section 12(g) of the Securities Exchange Act of 1934, 15 U.S.C. 78a *et seq.* (the ''Act'').[1]

Rule 12g3–2(b) (17 CFR 240.12g3–2(b)) provides an exemption from registration under Section 12(g) of the Act with respect to a foreign private issuer which submits on a current basis material specified in the Rule to the Commission. Such required material includes that information about which investors ought reasonably to be informed with respect to the issuer and its subsidiaries and which the issuer (1) has made or is required to make public pursuant to the law of the country of its domicile or in which it is incorporated or organized, (2) has filed or is required to file with a stock exchange on which its securities are traded and which was made public by such exchange and/or (3) has distributed or is required to distribute to its security holders.

On October 6, 1983, the Commission revised Rule 12g3–2(b) by terminating the availability of the exemptive rule for certain foreign issuers with securities quoted on an automated inter-dealer quotation system (which includes the Nasdaq stock market).[2] The Commission grandfathered indefinitely securities of non-Canadian issuers in compliance with the information-supplying exemption as of October 6, 1983 and quoted in Nasdaq on that date.[3] The Commission extended the exemption to Canadian securities only until January, 1986.

When it adopted Rule 12g3–2 and other rules relating to foreign securities,[4] the Commission indicated that from time to time it would issue lists showing those foreign issuers that have claimed exemptions from the registration provisions of Section 12(g) of the Act.[5] The purpose of the present release is to call to the attention of brokers, dealers and investors that some form of relatively current information concerning the foreign issuers included on the following list is available in the public files of the Commission.[6] The Commission also wishes to bring to the

[1] Foreign issuers may also be subject to such requirements of the Act by reason of having securities registered and listed on a national securities exchange in the United States, and may be subject to the reporting requirements by reason of having registered securities under the Securities Act of 1933, 15 U.S.C. 77a et seq.

[2] Exchange Act Release No. 20264 (Oct. 6, 1983).

[3] If, however, the securities are delisted from an automated inter-dealer quotation system or the issuer fails to maintain or otherwise meet the requirements of the exemption, the grandfather provision will cease to apply.

[4] Exchange Act Release No. 8066 (Apr. 28, 1967).

[5] Exchange Act Release No. 34477 (Aug. 2, 1994) contained the last such list.

[6] Inclusion of an issuer on the following list is not an affirmation by the Commission that the issuer has complied or is complying with all the conditions of the exemption provided by Rule 12g3–2(b). The list does identify those issuers that both have claimed the exemption and have submitted relatively current information to the Commission as of September 1, 1995.

attention of brokers, dealers, and investors the fact that current information concerning foreign issuers may not necessarily be available in the United States.[7] The Commission continues to expect that brokers and dealers will consider this fact in connection with their obligations under the federal securities laws to have a reasonable basis for recommending these securities to their customers.[8]

Any questions regarding Rule 12g3–2 or the list included herein should be directed to Frank G. Zarb, Jr., Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549 ((202) 942–2990). Requests for copies of the documents in the files should be directed to the Public Reference Room, Securities and Exchange Commission, Washington, D.C. 20549 ((202) 942–8090).

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

Issuer name	Country	File No.
A.C.T. Industrial Corp	Canada	82–1071
A.L.I Technologies Inc	Canada	82–3991
AAPC Ltd	Australia	82–3688
AB Astra	Sweden	82–3299
ABN AMRO Holding N.V	Netherlands	82–3246
ADI Technologies	Canada	82–3438
AGA AB	Sweden	82–800
AGC Americas Gold Corp	Canada	82–2622
AO TD GUM	Russia	82–4132
AQM Automotive Corp	Canada	82–3734
ATS Wheel Inc	Canada	82–1373
AVL Information Systems Inc	Canada	82–4010
AVVA Technologies Inc	Canada	82–3922
Aaron Oil Corp	Canada	82–3473
Abaddon Holdings Inc	Canada	82–3025
Ace Developments Ltd	Canada	82–2383
Adastral Resources Ltd	Canada	82–2124
Adex Mining	Canada	82–2796
Advanced Info Services	Thailand	82–3236
Advent Communications Corp	Canada	82–3675
Aerovias de Mexico S.A	Mexico	82–3195
Afrikander Lease Ltd	South Africa	82–245
Agen Ltd	Australia	82–2330
Air Canada	Canada	82–2548
Airboss Ltd	Australia	82–3104
Airboss of America Corp	Canada	82–2793
Akademia Enterprises Inc	Canada	82–4035
Akash Ventures Inc	Canada	82–695
Alantra Venture Corp	Canada	82–3307
Albert Fisher Group PLC	United Kingdom	82–1020
All Nippon Airways Co	Japan	82–1569
All North Resources Ltd	Canada	82–1646
Allan Resources Ltd	Canada	82–3403
Allied Colloids Group PLC	United Kingdom	82–4038
Allied Domecq PLC	United Kingdom	82–878
Allmed International Investments	Canada	82–1064
Almaden Resources Corp	Canada	82–2118
Alpargatas, S.A.I.C	Argentina	82–3122
Alpha Airports Group PLC	United Kingdom	82–3694
Alpha Credit Bank A.E	Greece	82–3399
Alpine Exploration Corp	Canada	82–1856
Alpine Oil Services Corp	Canada	82–3969
Altai Resources, Inc	Canada	82–2950
AmSteel Corp Berhad	Malaysia	82–3318
Amcorp Industries Inc	Canada	82–2991
Amer Group Ltd	Finland	82–1544
America West Capital Corp	Canada	82–3435
American Wollastonite Mining Corp	Canada	82–2887
Amir Ventures Corp	Canada	82–1840
Amoy Properties Ltd	Hong Kong	82–3410
Ampolex Ltd	Australia	82–3078
Andhra Valley Power Supply Co	India	82–3732
Angkasa Marketing Berhad	Malaysia	82–3319
Anglo American Corp. of S. Africa	South Africa	82–97
Anglo American Gold Investment Co	South Africa	82–146
Anglo American Platinum Corp	South Africa	82–4040
Anglo Irish Bank Corp	Ireland	82–3791

[7] Paragraph (a)(4) of Rule 15c2–11 [17 CFR 240.15c2–11] requires a broker-dealer initiating a quotation for securities of a foreign private issuer to maintain in its files, and to make reasonably available upon request, the information furnished to the Commission pursuant to Rule 12g3–2(b) since the beginning of the issuer's last fiscal year.

[8] See, e.g., Hanly v. SEC, 415 F.2d 589 (2nd Cir. 1969) (broker-dealer cannot recommend a security unless an adequate and reasonable basis exists for such recommendation).

Issuer name	Country	File No.
Antares Mining and Exploration Inc	Canada	82–3858
Anthian Resources Corp	Canada	82–4096
Anvil Resources Ltd	Canada	82–1244
Apasco, S.A. de C.V	Mexico	82–3103
Applied Inventories Management Inc	Canada	82–3763
Approach Resources Inc	Canada	82–2406
Aquaterre Mineral Development Ltd	Canada	82–3945
Aquiline Resources Inc	Canada	82–2857
Arapahoe Mining Corp	Canada	82–842
Arbor Resources Inc	Canada	82–3017
Argenta Systems Inc	Canada	82–1320
Argosy Mining Corp	Canada	82–3849
Arjo AB	Sweden	82–3660
Armada Gold Corp	Canada	82–3965
Arnoldo Mondadori Editori S.p.A	Italy	82–3996
Arvind Mills Ltd	India	82–3708
Asea AB	Sweden	82–736
Ashanti Goldfields Co	Ghana	82–3976
Ashton Mining Ltd	Australia	82–3577
Asia Fiber Co. Ltd	Thailand	82–2842
Astra Compania Argentina de Petroleo S.A	Argentina	82–3930
Athabaska Gold Res. Ltd	Canada	82–1906
Athena Gold Corp	Canada	82–2226
Atlas Copco AB	Sweden	82–812
Atlas Pacific Ltd	Australia	82–1852
Atna Resources Ltd	Canada	82–1556
Auridiam Consolidated N.L	Australia	82–3452
Auspex Gold Ltd	Canada	82–2778
Australian Hydrocarbons	Australia	82–856
Australian National Industries Ltd	Australia	82–3351
Autoliv Aktiebolog	Sweden	82–3810
Avcan Global System Inc	Canada	82–3955
Avtovazbank	Russia	82–3972
B.A.T. Industries	United Kingdom	82–33
B.Y.G. Natural Resources Inc	Canada	82–2038
BAA PLC	United Kingdom	82–3372
BBC Brown Boveri Ltd	Switzerland	82–2871
BC Gas Inc	Canada	82–3909
BHF Bank	Germany	82–3404
BMD Enterprises Ltd	Canada	82–1994
BMR Gold Corp	Canada	82–2246
BTR PLC	United Kingdom	82–898
BWI Resources Ltd	Canada	82–2914
BY & G Ventures Corp	Canada	82–1342
Bahia Sul Celulose S.A	Brazil	82–3793
Banca Comerciale Italiana	Italy	82–3707
Banco Espanol de Credito S.A	Spain	82–2814
Banco Mexicano	Mexico	82–3508
Banco de Bogota	Colombia	82–3973
Banco La Previsora S.A	Equador	82–4133
Banco del Sud S.A	Argentina	82–3830
Bandai Co	Japan	82–3919
Banff Resources Ltd	Canada	82–3977
Bank of Austria AG	Austria	82–3407
Bank of East Asia Ltd	Hong Kong	82–3443
Bank of Fukuoka	Japan	82–1117
Bank of Nova Scotia	Canada	82–132
Bank of Scotland	United Kingdom	82–3240
BankInter S.A	Spain	82–2972
Bar Resources Ltd	Canada	82–1047
Bashaw Holdings Ltd	Canada	82–4134
Bayer AG	Germany	82–3948
Bayerische Hypotheken-und Wechsel-Bank	Germany	82–3777
Beatrix Mines Ltd	South Africa	82–1054
Beaufield Resources Inc	Canada	82–1557
Beckett Technologies Corp	Canada	82–4007
Bergesen d.y. A/S	Norway	82–1697
Berjaya Group Berhad	Malaysia	82–2677
Berjaya Industrial Berhad	Malaysia	82–2580
Bespak PLC	United Kingdom	82–3349
Big I Developments Ltd	Canada	82–1094
Big Valley Resources Inc	Canada	82–1600
Biota Holdings Ltd	Australia	82–3570
Blue Circle Industries PLC	United Kingdom	82–927

Issuer name	Country	File No.
Blue Range Resource Corp	Canada	82–3302
Blyvooruitzicht Gold Mining Co	South Africa	82–69
Body Shop International PLC	United Kingdom	82–3534
Böhler Uddeholm AG	Austria	82–4089
Bomax Resources Corp	Canada	82–1562
Bombardier	Canada	82–3123
Bombril S.A	Brazil	82–3651
Booker PLC	United Kingdom	82–1531
Boots Company PLC	United Kingdom	82–788
Borealis Exploration Ltd	Canada	82–1656
Boron Chemicals International Ltd	Canada	82–3496
Boswell International Technologies	Canada	82–863
Bougainville Copper Ltd	New Guinea	82–1133
Boulder Gold N.L	Australia	82–1650
Bowater Industries PLC	United Kingdom	82–3
Bracken Mines Ltd	South Africa	82–219
Braiden Resources Ltd	Canada	82–2121
Brandselite International Corp	Canada	82–4042
Brascan Ltd	Canada	82–4
Bre-x Minerals Ltd	Canada	82–2750
Breckenridge Resources Ltd	Canada	82–1647
Bresea Resources Ltd	Canada	82–1377
Briana Bio-Tech Inc	Canada	82–3073
Bridge Oil Ltd	Australia	82–2167
Bridgestone Corp	Japan	82–1264
Brierly Investments Ltd	New Zealand	82–1093
Brimstone Gold Corp	Canada	82–2896
Bristo Explorations	Canada	82–2610
British Aerospace PLC	United Kingdom	82–3138
Broadwater Development Ltd	Canada	82–2631
Brunswick Mining and Smelting Corp	Canada	82–2827
Buffelsfontein Gold Mining Co	South Africa	82–302
Burmah Castrol PLC	United Kingdom	82–5
Burns Philip & Co	Australia	82–1565
C.A. Venezolana de Pulpa y Papel	Venezuela	82–3202
C.E.L. Industries Ltd	Canada	82–3421
C.P. Pokphand Co. Ltd	Bermuda	82–3260
CAPEX S.A.	Argentina	82–3862
CCL Industries Inc	Canada	82–2549
CDL Hotels International Ltd	Cayman Islands	82–3667
CIBA-GEIGY Ltd	Switzerland	82–2918
CML Microsystems PLC	United Kingdom	82–3176
CPX Industries Inc	Canada	82–3522
CS Holding	Switzerland	82–3477
CSI Credit Systems International Inc	Canada	82–3912
CSK Corp	Japan	82–781
CSL Limited	Australia	82–3785
CT&T Telecommunications Inc	Canada	82–3947
CTM Citras S.A.	Brazil	82–3555
Cabo Ventures Inc	Canada	82–1401
Cactus West Explorations Ltd	Canada	82–3268
Calais Resources Inc	Canada	82–3525
Calco Resources Inc	Canada	82–1914
Call 900 Inc	Canada	82–3663
Cambridge Environmental Systems	Canada	82–3474
Camelot Industries Inc	Canada	82–3288
Camus PLC	United Kingdom	82–3802
Canadian Conquest Explorations Inc	Canada	82–2473
Canadian Frobischer Resources	Canada	82–3254
Canadian Imperial Bank of Commerce	Canada	82–103
Canal Plus	France	82–2270
Canmark International Resources, Inc	Canada	82–2752
Capilano International Inc	Canada	82–3094
Captive Air International Inc	Canada	82–2367
Cardo AB	Sweden	82–4020
Caribbean Cement Company	Jamaica	82–3715
Caribgold Resources Inc	Canada	82–4104
Carlin Gold Co	Canada	82–1770
Cartwright Capital Ltd	Canada	82–3966
Casamiro Resources Corp	Canada	82–1431
Cascadia Technologies Ltd	Canada	82–3738
Cash Canada Pawn Corp	Canada	82–2728
Cash Resources Inc	Canada	82–4106
Castle Rock Exploration Corp	Canada	82–2472

Issuer name	Country	File No.
Cathay Pacific Airlines Ltd	Hong Kong	82–1390
Cathedral Gold Corp	Canada	82–1990
Celanese Canada Ltd	Canada	82–171
Cementos Lima	Peru	82–3911
Cementos Paz del Rio S.A	Colombia	82–3904
Cemex S.A	Mexico	82–2744
Cenco Petroleum Ltd	Canada	82–3679
Centrais Electricas Brasileiras S.A	Brazil	82–3937
Centrais Electricas de Santa Caterina	Brazil	82–3795
Central Costanera S.A	Argentina	82–3868
Central Pacific Minerals N.L.	Australia	82–354
Ceramica Carabobo C.A.	Venezuela	82–3097
Ceval Alimentos S.A	Brazil	82–3855
Challenger Minerals Ltd	Canada	82–3666
Champion Technology Holdings Ltd	Cayman Islands	82–3442
Chandeleur Bay Production Co	Canada	82–2897
Charter Consolidated PLC	United Kingdom	82–233
Chase Resource Corp	Canada	82–1976
Chauvco Resources Ltd	Canada	82–3316
Cheng Hsong Holding Ltd	Bermuda	82–3953
Cheung Kong (Holdings) Ltd	Hong Kong	82–4138
China Growth Enterprises Corp	Canada	82–2448
China Light & Power Co	Hong Kong	82–1197
China Overseas Land and Investment Ltd	Hong Kong	82–3987
China Pharmaceutical Enter. and Inv. Co	Hong Kong	82–4135
China Resources Enterprise Ltd	Hong Kong	82–4177
China Stategic Holdings Ltd	Hong Kong	82–3596
China Steel Corp	Taiwan	82–3296
Chinese Estates Holdings Ltd	Bermuda	82–3954
Christiana Bank OG Kredithasso	Norway	82–3018
Christies International PLC	United Kingdom	82–1180
Churchill Resources Ltd	Philippines	82–3927
Ciadea S.A	Argentina	82–3746
Ciments Francais	France	82–3336
Cimtek Integrated Manufacturing Tech	Canada	82–1680
Circa Telecommunications Inc	Canada	82–3128
City Developments Ltd	Singapore	82–3672
Clarins	France	82–2960
Clarion Environmental Technologies Inc	Canada	82–3533
Claude Resources Inc	Canada	82–1742
Climax International Co	Bermuda	82–4062
Cluff Resources	United Kingdom	82–3894
Coca-Cola Amatil Ltd	Australia	82–2994
Cogenix Power Corp	Canada	82–2990
Colony Pacific Explorations Ltd	Canada	82–1115
Colossal Resources Corp	Canada	82–3659
Columbia Fuels Inc	Canada	82–3365
Comac Food Group Inc	Canada	82–2456
Cominco Ltd	Canada	82–107
Commerzbank AG	Germany	82–2523
Commonwealth Bank of Australia	Australia	82–3612
Compagnie Financiere Richemont AG	Switzerland	82–4102
Compagnie Generale des Eaux	France	82–3814
Compagnie Generale des Est. Michelin	France	82–3354
Compagnie de Suez	France	82–2946
Companhia Energetica Minas Gerais	Brazil	82–3465
Companhia Energtica de Sao Paulo	Brazil	82–3691
Companhia Paranaense de Energica-Copel	Brazil	82–3730
Companhia Siderurgica Belgo-Mineirc	Brazil	82–3771
Companhia Siderurgica de Tubarao	Brazil	82–3842
Companhia Suzano De Papel E Celulose	Brazil	82–3550
Compania Naviera Perez Companc	Argentina	82–3295
Companion Building Material (Holding)	Hong Kong	82–3982
Compass Resources Ltd	Canada	82–2041
Con-Space Communications Ltd	Canada	82–3378
Concept Industries Inc	Canada	82–4003
Concert Industries Ltd	Canada	82–1003
Concordia Bau und Boden AG	Germany	82–3282
Cong Industries Inc	Canada	82–2445
Connecticut Development Corp	Canada	82–3238
Conpanhia Acos Especiais Itabira Acesita	Brazil	82–3769
Consolidated Electric Power Asia Ltd	Bermuda	82–3693
Consolidated Eurocan Ventures Ltd	Canada	82–2948
Consolidated Magna Ventures Ltd	Canada	82–1370

Issuer name	Country	File No.
Consolidated Newjay Resources Ltd	Canada	82–4066
Consolidated Pine Channel Gold Corp	Canada	82–2583
Consolodated First Northern Devlp. Inc	Canada	82–3788
Continental AG	Germany	82–1357
Continental Caretech Corp	Canada	82–3056
Continental Precious Minerals Inc	Canada	82–3358
Controladora Comercial Mexicana	Mexico	82–3177
Copene Petroquimica do Nordeste S.A	Brazil	82–3367
Corporacion Financiera Nacional ... S.A	Colombia	82–3989
Corporacion Financiera del Valle S.A	Colombia	82–3437
Corporacion Geo S.A. de C.V	Mexico	82–3870
Corporacion Industrial Sanluis S.A	Mexico	82–2867
Corriente Resources Inc	Canada	82–3775
Cosco Investment (Singapore) Ltd	Singapore	82–4033
Costello Resources	Canada	82–1918
Credit Lyonnais	France	82–3662
Crestar Energy Inc	Canada	82–3641
Cross Lake Minerals Ltd	Canada	82–2636
Cultor Ltd	Finland	82–1643
Curion Venture Corp	Canada	82–3602
Curlew Lake Resources Inc	Canada	82–1978
Cyclone Capital Corporation	Canada	82–2459
Cyn Tech Ventures Ltd	Canada	82–2675
Czar Resources Ltd	Canada	82–3136
DBA Telecom Corp	Canada	82–3736
DSM N.V	Netherlands	82–3120
Da Capo Resources Ltd	Canada	82–3931
Dai'ei Inc	Japan	82–230
Daibira Corp	Japan	82–3455
Dairy Farm International Holdings Ltd	Hong Kong	82–2962
Daiwa Danchi Co. Ltd	Japan	82–1218
Darius Technology Ltd	Canada	82–1267
Datawave Vending Inc	Canada	82–1901
De Beers Centenary AG	Switzerland	82–3069
De Beers Consolidated Mines Ltd	South Africa	82–91
Deelkraal Gold Mining Co.	South Africa	82–246
Deep Basin Petroleum Corp	Canada	82–2811
Delmay Energy Corp	Canada	82–3412
Delpet Resourses Ltd	Canada	82–1535
Demand Gold Ltd	Canada	82–2033
Den Danske Bank af 1871 AG	Denmark	82–1263
Den Norske Bank AS	Norway	82–3967
Dentonia Resources Ltd	Canada	82–627
Derlan Industries Ltd	Canada	82–2959
Desarrollo Industrial Latinoamericano	Mexico	82–4075
Desarrollo Urbano Integral S.A. de S.V	Mexico	82–4074
Desarrollo de Infraestructura S.A.	Mexico	82–4072
Desert Sun Mining Corp	Canada	82–1349
Deutsche Bank AG	Germany	82–334
Development Bank of Singapore	Singapore	82–3172
Diamond International Industries Inc	Canada	82–1314
Diasyn Technologies Ltd	Canada	82–2295
Dinali Petroleums Ltd	Canada	82–3750
Direct Choice T.V. Inc	Canada	82–4136
Discovery West Corp	Canada	82–1046
Distral S.A	Colombia	82–3983
Dixons Group PLC	United Kingdom	82–3331
Dofasco Ltd	Canada	82–3226
Dominguez & Cia Caracas S.A	Venezuela	82–3429
Dominion Mining Ltd	Australia	82–433
Doornfontein Gold Mining Co	South Africa	82–213
Dorbrana Resources Ltd	Canada	82–3944
Dorel Industries Inc	Canada	82–2800
Double Creek Mining Corp	Canada	82–4115
Dresdner Bank AG	Germany	82–229
Driefontein Consolidated Ltd	South Africa	82–124
Dupont Canada Inc	Canada	82–19
Durban Roodeporte Deep Ltd	South Africa	82–156
Dynamic Ventures Ltd	Canada	82–4080
EI Environmental Engineering Concepts	Canada	82–1598
EMR Microwave Technology Corp	Canada	82–4143
Eaglecrest Explorations Ltd	Canada	82–603
East Daggafontein Mines Ltd	South Africa	82–42
East India Hotels Ltd	India	82–3921

Issuer name	Country	File No.
East Midlands Electricity PLC	United Kingdom	82–3029
East Rand Gold & Uranium Co	South Africa	82–289
East Rand Proprietary Mines Ltd	United Kingdom	82–239
East West Resources Corp	Canada	82–787
Eastern Electricity PLC	United Kingdom	82–3040
Eastfield Resources Ltd	Canada	82–1929
Ecuadorean Copperfields Inc	Ecuador	82–966
Eisai Co. Ltd	Japan	82–4015
El Bravo Gold Mining Ltd	Canada	82–1888
Elandsrand Gold Mining Co	South Africa	82–266
Eldon Resources Ltd	Canada	82–3191
Eldorado Corp	Bermuda	82–3578
Elite Industries Ltd	Israel	82–2958
Email Limited	Australia	82–2951
Emerald Isle Resources Inc	Canada	82–1479
Emperor (China Concepts) Inv. Ltd	Bermuda	82–3886
Emperor Mines Ltd	Australia	82–969
Empire Alliance Properties Inc	Canada	82–2215
Engen Limited	South Africa	82–3807
Equus Petroleum Corp	Canada	82–1302
Erciyas Biracilik ve Malt Sanayi A.S	Turkey	82–4144
Eros Entertainment Inc	Canada	82–1931
Eskom	South Africa	82–4028
Esselte AB	Sweden	82–1355
Eucatex S.A. Industria y Commercio	Brazil	82–3618
Eurocontrol Technics Inc	Canada	82–3939
European Garnet Ltd	Canada	82–2169
European Technologies International Inc	Canada	82–3571
European Ventures Ltd	Canada	82–3491
Exall Resources Ltd	Canada	82–3535
F.H. Faulding & Company Ltd	Australia	82–2882
FCA International Ltd	Canada	82–1310
Faber Group Berhad	Malaysia	82–3505
Fairfield Minerals Ltd	Canada	82–1784
Fairhaven International Ltd	United Kingdom	82–650
Fairmile Aquisitions Inc	Canada	82–3717
Fairmont Resources Inc	Canada	82–3492
Fairway Industries Ltd	Canada	82–1962
Faith Mines Ltd	Canada	82–3597
Falcon Point Resources Ltd	Canada	82–1713
Falcon Ventures International Corp	Canada	82–1748
Falconbridge Ltd	Canada	82–3920
Fancamp Resources Ltd	Canada	82–3929
Far-Ben S.A de C.V.	Mexico	82–3600
Farm Energy Corp	Canada	82–3188
Fastlane International Enterprises Inc	Canada	82–1334
Fedsure Holdings Ltd	South Africa	82–3839
Fenway Resources Ltd	Canada	82–2303
Finance One Public Co. Ltd	Thailand	82–3536
First Australian Resources N.L	Australia	82–3494
First Choice Industries Ltd	Canada	82–2229
First Pacific Co. Ltd	Hong Kong	82–836
Fisons PLC	United Kingdom	82–202
Fletcher Challenge Canada Ltd	Canada	82–668
Fllughafen Wien AG	Austria	82–3907
Fokker NV	Netherlands	82–3014
Fomento Economico Mexicana	Mexico	82–3009
Fomento de Construcciones y Contratas	Spain	82–3743
Foodquest International Corp	Canada	82–1572
Footmaxx Holdings Inc	Canada	82–4079
Footwall Explorations Ltd	Canada	82–2177
Forbes Medi Tech Inc	Canada	82–3139
Formation Capital Corp	Canada	82–2783
Formosa Chemicals and Fibre Corp	China	82–3979
Foschini Ltd	South Africa	82–4044
Foster's Brewing Group Ltd	United Kingdom	82–1711
Fotex Elso Amerikai Magyar Fotosz	Hungary	82–3286
Founder Resources Inc	Canada	82–3264
Fountain House Holdings Corp	Canada	82–3811
Francisco Gold Corp	Canada	82–3752
Frankie Dominion International Ltd	Bermuda	82–3649
Franz Capital Corp	Canada	82–2574
Fraserfund Financial Corp	Canada	82–3588
Free State Consolidated Gold Mines	South Africa	82–44

Issuer name	Country	File No.
Freeport Resources Inc	Canada	82–1131
Frontline AB	Sweden	82–3792
Fuji Photo Film Co. Ltd	Japan	82–78
G.B. Holdings Ltd	Singapore	82–2192
GKN PLC	United Kingdom	82–1042
GLS Global Listing Service Ltd	Canada	82–1644
GMD Resources Corp	Canada	82–4071
Gala-Bari International Inc	Canada	82–2511
Galleon Mining Ltd	Canada	82–3258
Gallery Resources Ltd	Canada	82–2877
Garden Lake Resources Ltd	Canada	82–3489
Genbel Investments Ltd	South Africa	82–235
Gencor Ltd	South Africa	82–311
General Diamond Corp	Canada	82–3800
Genetronics Biomedical Ltd	Canada	82–4060
Geriatrx Pharmaceutical Corp	Canada	82–1184
Gerle Gold Ltd	Canada	82–1209
Gesham Resources Inc	Canada	82–3625
Giordano Holdings Ltd	Hong Kong	82–3780
Glencairn Explorations Ltd	Canada	82–2640
Glencar Explorations PLC	Ireland	82–1421
Glimmer Resources Inc	Canada	82–1970
Global Teleworks Corp	Canada	82–3375
Globe Group S.A	Greece	82–3199
Globex Mining Enterprises Inc	Canada	82–4025
Gold Fields Property Co. Ltd	South Africa	82–214
Gold Fields of South Africa Ltd	South Africa	82–204
Gold Mines of Kalgoorlie Ltd	Australia	82–2076
Gold Peak Industries (Holdings) Ltd	Canada	82–3604
Goldcliff Resources Corp	Canada	82–2748
Goldcorp Inc	Canada	82–1106
Golden Arch Resources Ltd	Canada	82–659
Golden Knight Resources Inc	Canada	82–811
Golden Kootenay Resources Inc	Canada	82–2546
Golden Resources Development Int'l Ltd	Bermuda	82–4026
Golden Unicorn Mining Corp	Canada	82–3532
Goldnev Resources	Canada	82–1080
Goldpac Investments Ltd	Canada	82–1167
Goldstar Co. Ltd.	Korea	82–3857
Goldwater Resources Ltd	Canada	82–2120
Goodman Fielder Wattie Ltd	Australia	82–2009
Govett Strategic Investment Trust PLC	United Kingdom	82–287
Graffoto Industries Corp	Canada	82–3579
Gran Cadena de Almacenes Colombianos S.A.	Colombia	82–3974
Grand Hotel Holdings Ltd	Hong Kong	82–3408
Grand National Resources Inc	Canada	82–1100
Grande Portage Resources Ltd	Canada	82–1767
Grandmaster Technologies Inc	Canada	82–1764
Granduc Mines Ltd	Canada	82–3124
Granisko Resources Inc	Canada	82–3861
Grasim Industries Ltd	India	82–3322
Great Eagle Holdings Ltd	Bermuda	82–3940
Grecian Specialty Foods Inc	Canada	82–4110
Greenlight Communications Inc	Canada	82–2985
Greenwood Environmental Inc	Canada	82–2195
Grootvlei Proprietary Mines Ltd	South Africa	82–222
Groupe Danone	France	82–3001
Groupo Financiero GBM Atlantico	Mexico	82–3742
Grupo Carso, S.A. de C.V	Mexico	82–3175
Grupo Financeiro Inverlat S.A. de C.V	Mexico	82–3610
Grupo Financiero Banamex Accival	Mexico	82–3325
Grupo Financiero Invermexico S.A. de C.V	Mexico	82–3447
Grupo Financiero Prime Internacional	Mexico	82–3548
Grupo Financiero Probusa S.A. de C.V	Mexico	82–3623
Grupo Gigante, S.A. de C.V	Mexico	82–3142
Grupo Situr, S.A. de C.V	Mexico	82–3187
Grupo Synkro, S.A. de C.V	Mexico	82–2847
Grupo Video Visa, S.A. de C.V	Mexico	82–3193
Guangzhou Shipyard Int'l Co	China	82–4036
Guardian Enterprises Ltd	Canada	82–857
Guinness PLC	United Kingdom	82–1478
Guongdong Investments Ltd	Hong Kong	82–3772
Gwalia Consolidated Ltd	Australia	82–2126
H. Jager Developments Inc	Canada	82–2818

Issuer name	Country	File No.
H.J. Forest Products Inc	Canada	82–4141
HB International Holdings Ltd	Bermuda	82–3949
HSBC Holdings PLC	United Kingdom	82–683
Hai Sun Hup Group Ltd	Singapore	82–3575
Halitec Industries Corp	Canada	82–3711
Hana Microelectronics Co. Ltd	Thailand	82–3633
Hang Lung Development Co. Ltd	Hong Kong	82–1439
Hang Seng Bank Ltd	Hong Kong	82–1747
Hanny Magnetics Holdings Ltd	Bermuda	82–3638
Hansol Paper Co.	Korea	82–3451
Harbour Petroleum Company Ltd	Canada	82–3427
Hardman Resources N.L	Australia	82–3472
Harmac Pacific Inc	Canada	82–4122
Harmony Gold Mining Co	South Africa	82–238
Hars Systems Inc	Canada	82–1870
Hartbeetstfuntein Gold Mining Co	South Africa	82–3583
Hartstone Group PLC	United Kingdom	82–3022
Havas S.A	France	82–2879
Hec Hitech Entertainment Corp	Canada	82–3844
Henderson Investment Ltd	Hong Kong	82–3964
Henderson Land Development Co	Hong Kong	82–1561
Hendricks Minerals Canada Ltd	Canada	82–3938
Hera Resources Inc	Canada	82–3656
Heritage Petroleums Inc	Canada	82–1624
Hidroelectrica Alicura S.A	Argentina	82–3749
Hidroelectrica Piedra del Aguila	Argentina	82–4083
Highgrade Ventures Ltd	Canada	82–2257
Highveld Steel & Vanadium Corp Ltd	South Africa	82–596
Hillsdown Holdings PLC	United Kingdom	82–1407
Hindalco Industries Ltd	India	82–3428
Hino Motors Ltd	Japan	82–1388
Hoganas AB	Sweden	82–3754
Hokuriku Bank Ltd	Japan	82–1045
Hol-Lac Gold Mines Ltd	Canada	82–3529
Holderbank Financiere Glaris Ltd	Switzerland	82–4093
Home Venture Ltd	Canada	82–1669
Hong Kong Daily News Holding Ltd	Bermuda	82–3887
Hong Kong & China Gas Co	Hong Kong	82–1543
Hong Kong Aircraft Engineering Co	Hong Kong	82–3846
Hong Kong Land Holdings Ltd	Hong Kong	82–2964
Hongkong Electric Holdings Ltd	Hong Kong	82–4086
Hopewell Holdings Ltd	Hong Kong	82–1547
Horace Small Apparel PLC	United Kingdom	82–3341
Hornbach-Baumarkt AG	Germany	82–3729
Huhtamaki Oy	Finland	82–2925
Hunter Douglas NV	Netherlands	82–3741
Huntington Resources Inc	Canada	82–1374
Huntington Rhodes Inc	Canada	82–2917
Huron Star Resources Ltd	Canada	82–2218
Hydromet Corporation	Australia	82–3543
Hysan Development Co	Hong Kong	82–1617
Hyundai Motor Company	Korea	82–3423
I.T.C. Limited	India	82–3470
IBI Corp	Canada	82–2135
ICM Ventures Inc	Canada	82–3054
IGT Growth Technologies Inc	Canada	82–4098
Iberdrola S.A	Spain	82–3382
Imasco Ltd	United Kingdom	82–118
Impala Platinum Holdings Ltd	South Africa	82–359
Imperial Metals Corp	Canada	82–1032
Indian Hotels Company Ltd	India	82–4076
Indian Petrochemicals Corp	India	82–3958
Indstrl Credit & Investment Corp India	India	82–3716
Industrias Klabin De Papel E Celulose	Brazil	82–3797
Iner-citic Envirotec Inc	Canada	82–2345
Inflazyme Pharmaceuticals Ltd	Canada	82–2317
Inmet Mining Corp	Canada	82–3481
Insulpro Industries Inc	Canada	82–3281
Integrated Paving Concepts Inc	Canada	82–3956
Integrated Media Communications Inc	Canada	82–2263
Interaction Resources Ltd.	Canada	82–705
Interactive Video Systems Inc.	Canada	82–3580
Interfirst Resources Inc.	Canada	82–2302
Interlock Consolidated Enterprises	Canada	82–3359

Issuer name	Country	File No.
Intermin Resourse Corp	Canada	82–1528
International Bioremediation Svs. Inc	Canada	82–3828
International Broadlands Resources	Canada	82–4168
International Container Terminal Service	Philippines	82–3453
International Curator Resources	Canada	82–1540
International Helix Biotechnology	Canada	82–1044
International Homestead Resources	Canada	82–3822
International Kaaba Gold Corp	Canada	82–1049
International King Jack Resources	Canada	82–2109
International Mahogany Corp	Canada	82–2375
International Nederlanden Groep N.V	Netherlands	82–3458
International Onword Learning Sys	Canada	82–2930
International Panorama Resource	Canada	82–1965
International Pipe Ltd	Hong Kong	82–3850
International Road Dynamics Inc	Canada	82–3899
International Skyline Gold Corp	Canada	82–1449
International Thunderbird Gaming	Canada	82–2244
International Topaz Business Devlp. Corp	Canada	82–2276
International Tower Hill Mines	Canada	82–3248
Interstar Mining Group Inc	Canada	82–3759
Invesco Mim PLC	United Kingdom	82–3440
Iochpe-Maxion S.A	Brazil	82–3722
Irish Life PLC	Ireland	82–3134
Iscor Limited	South Africa	82–3826
Isras Investment Company	Israel	82–3243
J. Sainsbury PLC	United Kingdom	82–913
JCI Limited	South Africa	82–4039
JG Summit Holdings Inc	Philppines	82–3572
JSB Inkombank	Russia	82–4124
Jackson Hole Holding Corp	Canada	82–1998
Jamaica Broilers Group Ltd	Jamaica	82–3720
James Hardie Industries Ltd	Australia	82–972
Japan Airlines Company	Japan	82–122
Japan Telecom Co	Japan	82–3943
Jardine Matheson Holdings	Hong Kong	82–2963
Jardine Strategic Holdings Ltd	Bermuda	82–3085
Jarvis Resources Ltd	Canada	82–962
Jascan Resources Inc	Canada	82–2123
Jason Mining Ltd	Australia	82–1257
Jentan Resources Ltd	Canada	82–4017
Jilbey Exploration Ltd	Canada	82–1629
Jinhui Holdings Co	Hong Kong	82–3765
Jinhui Shipping and Transportation	Bermuda	82–4054
Johannesburg Consolidated Investment Co	South Africa	82–4030
John Keells Holdings Ltd	Sri Lanka	82–3854
John Labatt Ltd	Canada	82–1103
Johnson Electric Holdings Ltd	Canada	82–2416
Joutel Resources Ltd	Canada	82–502
K. Wah International Holdings Ltd	Bermuda	82–3853
Kalmar Industries AB	Sweden	82–3889
Kansallis-Osake-Pankki	Finland	82–3798
Kaufhof AG	Germany	82–3592
Kawasaki Steel Corp	Japan	82–3389
Kelso Technologies Inc	Canada	82–2441
Keng Fong Sin Kee Construction	Hong Kong	82–3454
Kenrich Mining Corp	Canada	82–2809
Keppel Corporation Ltd	Singapore	82–2564
Kettle River Resources Ltd	Canada	82–666
Key Anacon Mines Ltd	Canada	82–23
Keylock Resources Inc	Canada	82–3271
Kia Motors Corp	Korea	82–3205
Kidston Gold Mines Ltd	Australia	82–2351
Kimberly Clark De Mexico	Mexico	82–3308
Kingboard Chemical Holdings Ltd	Cayman Islands	82–4082
Kingfisher PLC	United Kingdom	82–968
Kingsfield Capital Corp	Canada	82–3617
Kingston Resources Ltd	Canada	82–1969
Kinova Holdings Corp.	Canada	82–3558
Kinross Mines Ltd	South Africa	82–220
Kirin Brewery Co	Japan	82–188
Kloof Gold Mining Co	South Africa	82–205
Kobe Steel Ltd	Japan	82–3371
Kolvox Communications Inc	Canada	82–3829
Koninklijke Wessanen N.V	Netherlands	82–1306

Issuer name	Country	File No.
Kookaburra Resources Ltd	Canada	82–2740
Korea Mobile Telecommunications Corp	Korea	82–4048
Krones AG	Germany	82–3871
Kumagai Gumi (H.K.) Ltd	Hong Kong	82–4029
Kvaerner AS	Norway	82–3745
Kymmene Oy	Finland	82–3978
La Cemento Nacional C.A	Ecuador	82–3890
La Rock Mining Corp	Canada	82–1496
Ladbroke Group PLC	United Kingdom	82–1571
Lafarge Coppee	France	82–3369
Lagardere Groupe S.C.A	France	82–3916
Lai Sun Development Company	Hong Kong	82–3878
Landmark Resources Ltd	Canada	82–4109
Larsen & Toubro Ltd	India	82–3957
Latin American Gold Inc	Canada	82–3113
Laura Ashley Holdings PLC	United Kingdom	82–1356
Leeward Capital Corp	Canada	82–3640
Legal and General Group PLC	United Kingdom	82–3664
Legend Holding Ltd.	Hong Kong	82–3950
Lend Lease Corporation Ltd	Australia	82–3498
Lenzing AG	Austria	82–3207
Leslie Gold Mines Ltd	South Africa	82–223
Levelland Energy and Resources Ltd	Canada	82–3590
Liberty Life Association of Africa Ltd	South Africa	82–3924
Lighting Jack Film Trust	Australia	82–3584
Lion Land Berhad	Malaysia	82–3342
Lippo Ltd	Hong Kong	82–3552
Lojas Americanas S.A	Brazil	82–4047
London Electricity PLC	United Kingdom	82–3037
Lonrho PLC	United Kingdom	82–191
Lorica Resources Ltd	Canada	82–3601
Loumic Resources Ltd	Canada	82–2670
Lucas Gold Resources Corp	Canada	82–2297
Lucero Resource Corp	Canada	82–1756
Lukoil Co	Russia	82–4006
Lumina Investment Corp	Canada	82–4004
Luminart	Canada	82–3864
Luxmatic Technologies N.V	Netherlands	82–3903
Lydenburg Platinum Ltd	South Africa	82–312
Lytton Minerals Ltd	Canada	82–3627
MBF Holdings Berhad	Malaysia	82–3469
MCB Investments Corp	Canada	82–3512
MIM Holdings Ltd	Australia	82–173
MIS Multimedia Interactive Servies Inc	Canada	82–1985
Maesa Gaming Management Inc	Canada	82–1208
Mai PLC	United Kingdom	82–1940
Major General Resources Ltd	Canada	82–2996
Makro Atacadista S.A	Brazil	82–4095
Malbak Ltd	South Africa	82–3751
Mandarin Oriental International Ltd	Hong Kong	82–2955
Manhattan Minerals Corp	Canada	82–3328
Mantex S.A.I.C.A.-S.A.C.A	Venezuela	82–3241
Manweb PLC	United Kingdom	82–3036
Marishell Products Ltd	Canada	82–3766
Mark Resources Inc	Canada	82–4069
Marks and Spencer PLC	United Kingdom	82–1961
Marubeni Corp	Japan	82–616
Massey Mercantile Ltd	Canada	82–3568
Master Player Game Centers Inc	Canada	82–4081
Matrix Energy	Canada	82–1214
Matrix Telecommunications Ltd	Australia	82–1189
Mavesa S.A	Venezuela	82–3397
Maximum Resources	Canada	82–3923
Maxwell Energy Corp	Canada	82–3061
Mayr-Meinhof Karton AG	Austria	82–4052
Mega Star Ventures	Canada	82–2553
Menika Mining Co	Canada	82–1248
Metra Corp	Finland	82–933
Metrowerks Inc	Canada	82–4049
Metsa Serla OY	Finland	82–3696
Midlands Electricity PLC	United Kingdom	82–3035
Mill City Gold Mining Corp	Canada	82–3076
Minefinders Corp	Canada	82–2227
Minera Rayrock Inc	Canada	82–3471

Issuer name	Country	File No.
Minorco	Bermuda	82–206
Minto Explorations Ltd	Canada	82–4119
Minvita Enterprises Ltd	Canada	82–2161
Mirage Resource Corp	Canada	82–1838
Miramar Mining Corp	Canada	82–1566
Miranda Industries Inc	Canada	82–4016
Mirgor SACIFIA	Argentina	82–3941
Mirror Group Newspapers PLC	United Kingdom	82–3114
Mishibishu Gold Corp	Canada	82–2682
Mitsubishi Chemical Corp	Japan	82–1191
Mitsubitshi Corp	Japan	82–3784
Modatech Systems Inc	Canada	82–2006
Molson Companies Ltd	Canada	82–2954
Montclerg Resources Ltd	Canada	82–3951
Montello Resources Ltd	Canada	82–1812
Montoro Resources Inc	Canada	82–3999
Morgan Crucible Company	United Kingdom	82–3387
Mortlock Resource Corp	Canada	82–3685
Mostostal Export Corp	Poland	82–3521
Motion Works Corp	Canada	82–3250
Moulin International Holding Ltd	Bermuda	82–3970
Mount Burgess Gold Mining Co	Australia	82–1235
Mountain Province Mining Corp	Canada	82–2540
Mountain West Resources Inc	Canada	82–1201
Mt. Kersey Mining N.L	Australia	82–3790
Mt. Leyshon Gold Mines Ltd	Canada	82–1753
Multibanco BG—Banco de Guayaquil S.A	Ecuador	82–4143
Multinational Resources Inc	Canada	82–1095
Multiplex Technologies Inc	Canada	82–2937
Mutual Resources Ltd	Canada	82–1171
N.V. Amev	Netherlands	82–3118
NDU Resources Ltd	Canada	82–2292
NV Verenigd Bezit VNU	Netherlands	82–2876
Nampak Limited	South Africa	82–3714
Nan Ya Plastics Corp	China	82–3980
Naneco Minerals Ltd	Canada	82–2618
National Bank of Canada	Canada	82–3764
National Mutual Asia Ltd	Hong Kong	82–3426
National and Provincial Building Society	United Kingdom	82–3753
Naturally Niagara Inc	Canada	82–3621
Nebex Resources Ltd	Canada	82–3897
Nedcor Limited	South Africa	82–3893
Nestle S.A	Switzerland	82–1252
Network One Holding Corp	Canada	82–3787
Nevada North Resources Inc	Canada	82–1665
Nevada Star Resources Corp	Canada	82–3088
New Age Ventures Inc	Canada	82–3344
New Canamin Resources	Canada	82–1725
New Claymore Resources Ltd	Canada	82–3433
New Concept Technologies International	Canada	82–3786
New World Developments Co	Hong Kong	82–2971
NewCoast Silver Mines Ltd	Canada	82–4123
Newera Capital Corp	Canada	82–2993
Nextra Technologies Inc	Canada	82–4129
Nintendo Co	Japan	82–2544
Nippon Shokubai Kagaku Kagyo Co	Japan	82–1484
Nissan Motor Co	Japan	82–207
Nomura Securities Co	Japan	82–3872
Nora Exploration Inc	Canada	82–3329
Norcan Resources Ltd	Canada	82–3934
Nordic Lite Inc	Canada	82–3888
Normandy Poseidon Ltd	Australia	82–1975
Noront Resources Ltd	Canada	82–2304
North Ltd	Australia	82–2531
North American Fire Guardian	Canada	82–1921
North American Nippon Technologies Corp	Canada	82–3048
North West Water Group PLC	United Kingdom	82–2813
Northern Electric PLC	United Kingdom	82–3039
Northern Orion Explorations Ltd	Canada	82–3153
Northern Reef Exploration Ltd	Canada	82–2961
Nu Lite Resources Industries Ltd	Canada	82–3643
Nuinsco Resources Ltd	Canada	82–1846
OJ Oil & Gas Corp	Canada	82–2209
OMV AG	Austria	82–3209

Issuer name	Country	File No.
Obras Y Prayectos S.A. de C.V	Mexico	82–4073
Ocean Diamond Mining Holdings	South Africa	82–4046
Octagon Industries Inc	Canada	82–3310
Odessa Industries Inc	Canada	82–4002
Oil City Lubricants Ltd	Canada	82–1260
Olds Industries Inc	Canada	82–3461
Olympic Resources Ltd	Canada	82–4055
Olympus Optical Co	Japan	82–3326
Omron Corp	Japan	82–1170
Onfem Holdings Ltd	Bermuda	82–3735
Ontex Resources Ltd	Canada	82–2100
Opact Resources Ltd	Canada	82–2003
Orbit Oil and Gas Ltd	Canada	82–3107
Orient Telecom and Technology Holding	Bermuda	82–3946
Orkla A.S	Norway	82–3998
Oro Bravo Resources Inc	Canada	82–2560
Osito Ventures Ltd	Canada	82–2238
Otis J. Explorations Corp	Canada	82–3587
Outokumpu OY	Finland	82–3680
PBX Resources Ltd	Canada	82–2635
PTT Exploration and Production	Thailand	82–3827
PWA Corp	Canada	82–3203
Pacific Andes Int'l Holdings Ltd	Bermuda	82–4031
Pacific Concord Holding Ltd	Hong Kong	82–3819
Pacific Falcon Resources Corp	Canada	82–2204
Pacific Rim Mining	Canada	82–3611
Pacific Vargold Mines Ltd	Canada	82–2891
Pacific Vista Industries Inc	Canada	82–2829
Pact Resources N.L	Australia	82–1386
PanGlobal Enterprises Inc	Canada	82–3223
Pangea Credfields Inc	Canada	82–3917
Paramount Ventures & Finance Inc	Canada	82–2207
Parkcrest Explorations Ltd	Canada	82–4090
Pearson PLC	United Kingdom	82–4019
Pechiney International	France	82–3350
Pelsart Resources N.L	Australia	82–484
Pentland Industries PLC	United Kingdom	82–1219
Pepkor Ltd	South Africa	82–3925
Peregrine Investments Holdings Ltd	Hong Kong	82–3466
Pernod Ricard S.A	France	82–3361
Peru Real Estate S.A	Peru	82–4107
Peruvian Gold Ltd	Canada	82–3997
Petro Plus Inc	Canada	82–2432
Peugeot S.A	France	82–3531
Phoenix Canada Oil Co	Canada	82–3936
Pioneer International Ltd	Australia	82–2701
Pittencrief Resources PLC	United Kingdom	82–3985
Placer Pacific Ltd	Australia	82–1952
Playmates Properties Holdings Ltd	Hong Kong	82–2979
Plentech Electronics Inc	Canada	82–2479
Polyair Tires Inc	Canada	82–3756
Poplar Resources Ltd	Canada	82–1489
Poseidon Gold Ltd	Australia	82–2875
Power Corp of Canada	Canada	82–137
Power Financial Corp	Canada	82–1716
Premier Consolidated Oilfields PLC	United Kingdom	82–2617
Premier Group Ltd	South Africa	82–3892
Premium Springwater & Juice Company	Canada	82–3882
President Enterprises Co	Taiwan	82–3424
Prime Resources Group Inc	Canada	82–1503
Princeton Mining Co	Canada	82–1243
Priva Inc	Canada	82–3837
Progressive Technologies Inc	Canada	82–2325
Promatek Industries Ltd	Canada	82–1351
Proprietary Energy Industries Inc	Canada	82–4140
Protens International PLC	United Kingdom	82–3895
Prudential Corporation PLC	United Kingdom	82–1477
Q Media Software Corp	Canada	82–3761
QNI Limited	Australia	82–3834
Qinling Motors Company	China	82–3891
Quantas Airways Ltd	Australia	82–4130
Quattro Resources Ltd	Canada	82–2625
Quillo Technologies Inc	Canada	82–1960
Quinto Mining Corp	Canada	82–475

Issuer name	Country	File No.
RAO Unified Energy Systems	Russia	82–4077
RFM Corporation	Philippines	82–4117
RJK Explorations Ltd	Canada	82–2629
RWE AG	Germany	82–4018
Racal Electronics PLC	United Kingdom	82–481
Radical Advanced Technologies Corp	Canada	82–3251
Ranbaxy Laboratories Ltd	India	82–3821
Ranchmen's Resources Ltd	Canada	82–2615
Rand Mines Ltd	South Africa	82–304
Randfontein Estates Gold Mining	South Africa	82–267
Rank Organisation Ltd	United Kingdom	82–17
Rautaruukki Oy	Finland	82–3981
Rayrock Yellowknife Resources Inc	Canada	82–378
Raytec Capital Corp	Canada	82–3553
Receptagon Ltd	Canada	82–3096
Recor Holding Ltd	Bermuda	82–3906
Redell Mining Corp	Canada	82–1286
Redfern Resources	Canada	82–1824
Redland PLC	United Kingdom	82–2156
Reed Lake Exploration Ltd	Canada	82–2254
Reeflex Petroleum Technologies Inc	Canada	82–3770
Refrigeracao Parana S.A.	Brazil	82–3794
Regeena Resources Inc	Canada	82–3560
Regent Venture Ltd	Canada	82–2000
Regie Nationale des Usines Renduit	France	82–4001
Rembrandt Group Ltd	South Africa	82–3760
Remington Creek Resources Inc	Canada	82–4022
Rentokil Group PLC	United Kingdom	82–3806
Repola Ltd	Finland	82–3161
Resorts World Berhad	Malaysia	82–3229
Response Biomedical Corp	Canada	82–1365
Rhodia-Ster S.A.	Argentina	82–3942
Rich Mineral Corp	Canada	82–2832
Richlode Investments Corp	Canada	82–3915
Richmont Mines Inc	Canada	82–2940
Ridgeway Petroleum Corp	Canada	82–1819
Riley Resources	Canada	82–2159
Riva Petroleum Inc	Canada	82–2945
Roche Holdings Ltd	Switzerland	82–3315
Rockwealth International Resource Corp	Canada	82–2723
Rocraven Resources Ltd	Canada	82–493
Rolls-Royce PLC	United Kingdom	82–2821
Roper Resources Inc	Canada	82–2020
Roraima Gold Corp	Canada	82–3988
Rosenthal AG	Germany	82–1648
Ross Mining N.L	Australia	82–3609
Rothmans International Ltd	United Kingdom	82–84
Roussel Uclaf	France	82–3574
Roxbury Capital Corp	Canada	82–3616
Royal Bank of Canada	Canada	82–796
Royal Bay Gold Corp	Canada	82–3831
Royal Concorde Capital Inc	Canada	82–3674
Royal Nedlloyd Group NV	Netherlands	82–1056
Royal PTT Nederland NV	Netherlands	82–3778
Rustenburg Platinum Holdings Ltd	South Africa	82–241
Ryde Energy Inc	Canada	82–2326
SAP AG	Germany	82–4045
SGL Carbon AG	Germany	82–4023
SLN Ventures Corp	Canada	82–3856
Saddle Mountain Timber Corp	Canada	82–2749
Safari International Resources Inc	Canada	82–2995
Sage Resources Ltd	Canada	82–3670
Saint Laurent Paperboard Inc	Canada	82–3896
Sakura Bank Ltd	Japan	82–3055
Samantha Gold N.L	Australia	82–323
Samson Exploration	Australia	82–401
Samsung Electronics Co	Korea	82–3109
Samsung Heavy Industries Co	Korea	82–4091
San Miguel Corp	Philippines	82–306
Sandoz Ltd	Switzerland	82–3156
Sandvik AB	Sweden	82–1463
Santos Ltd	Australia	82–34
Sanyo Electric Co	Japan	82–264
Sanyo Securities Co	Japan	82–1857

Issuer name	Country	File No.
Sao Paulo Alpargatas S.A.	Brazil	82–3692
Sappi Ltd	South Africa	82–3835
Sasol Ltd	South Africa	82–631
Scantronic Holdings PLC	United Kingdom	82–2584
Schmitt Industries Inc	Canada	82–1872
Schneider S.A.	France	82–3706
Score Athletic Products Inc	Canada	82–3051
Scottish Hydro-Electric PLC	United Kingdom	82–3099
Scottish Power PLC	United Kingdom	82–3100
Seabil NV	New Zealand	82–3824
Seacorp Capital Corp	Canada	82–1786
Seardel Investment Corp	South Africa	82–3995
Sears Roebuck de Mexico S.A. de C.V.	Mexico	82–3261
Sechura Inc	Canada	82–1278
Sedgwick Group PLC	United Kingdom	82–1529
Seeboard PLC	United Kingdom	82–3033
Sega Enterprises Ltd	Japan	82–3439
Seine River Resources Inc	Canada	82–2942
Selkirk Springs International	Canada	82–2526
Sementes Agroceres S.A.	Brazil	82–3709
Semi-Tech (Global) Co	Bermuda	82–3337
Senetek PLC	United Kingdom	82–875
Sentrachem Ltd	South Africa	82–3914
Servgro International Ltd	South Africa	82–3898
Seversky Tube Works	Russia	82–4101
Shangai Outer Gaogiao Free Trade Zone	China	82–3962
Shanghai Chlor-Alkali Chem. Co	China	82–3657
Shanghai Erfangji Co	China	82–3613
Shanghai Jinqiao Exp. Pr. Zone Dev. Co	China	82–4146
Shanghai Tyre and Rubber Co	China	82–3606
Sharp Corp	Japan	82–1116
Sharpe Energy & Resources Ltd	Canada	82–4009
Shenzen Special E.Z. Real Estate Group	China	82–3783
Shenzhen China Bicycle Co Holdings Ltd	China	82–4068
Shinawatra Computer Co	Thailand	82–3140
Shiceido Company Ltd	Japan	82–3311
Shomega Limited	Austrialia	82–3815
Shun Tak Holdings	Hong Kong	82–3357
Siebe PLC	United Kingdom	82–2142
Siemens AG	Germany	82–73
Sierra Nevada Gold Ltd	Canada	82–894
Sikaman G/l§Resources Ltd	Canada	82–1651
Silver Peak Resources Ltd	Canada	82–1298
Silver Standard Resources Inc	Canada	82–3190
Silver Tusk Mines Ltd	Canada	82–723
Silverspar Minerals Inc	Canada	82–478
Simsmetal Ltd	Australia	82–3838
Singapore Telecommunications Ltd	Singapore	82–3622
Siu Fung Ceramics Holdings Ltd	Hong Kong	82–3918
Skibsaksjeselskapet Storli	Norway	82–3848
Slovnaft, A.S.	Russia	82–3721
Slumber Magic Adjustable Bed	Canada	82–2057
Smedvig A.S.	Norway	82–3551
Smedvig Tankships Limited	Bermuda	82–3591
Societe Generale	France	82–3501
Societe Generale de Belgique S.A.	Belgium	82–3879
Société Nationale des Chemins de Fer	Belgium	82–4161
Sol Petroleo S.A.	Argentina	82–3448
Solvay & Cie S.A.	Belgium	82–2691
Sons of Gwalia N.L	Australia	82–1039
South African Breweries Ltd	South Africa	82–303
South African Land & Expl. Co	South Africa	82–59
South China Morning Post	Hong Kong	82–3327
South Crofty Holdings Ltd	Canada	82–2662
South Roodepoort Main Reefs Area Ltd	South Africa	82–930
South Wales Electricity PLC	United Kingdom	82–3031
South Western Electricity PLC	United Kingdom	82–3030
Southcorp Holdings Ltd	Australia	82–2692
Southern Electric PLC	United Kingdom	82–3032
Southern Era Resources Ltd	Canada	82–3658
Southern Pacific Petroleum N.L	Australia	82–353
Southern Petrochemical Industries Co	India	82–3581
Southern Water PLC	United Kingdom	82–2797
Southvaal Holdings Ltd	South Africa	82–197

Issuer name	Country	File No.
Southview Capital Corp	Canada	82–4012
Southward Energy Ltd	Canada	82–3005
Spectrum Games Corp	Canada	82–3599
Sport Specific International Inc	Canada	82–3695
St. Barbara Mines Ltd	Australia	82–3747
St. George Bank Ltd	Australia	82–3809
St. Jude Resources Ltd	Canada	82–4014
St. Lukes Group Ltd	New Zealand	82–3645
Stadshypotek AB	Sweden	82–3933
Stampede Oil Inc	Canada	82–3605
Star Paging International Holdings Ltd	Bermuda	82–3654
Starlight International Holdings Ltd	Bermuda	82–3594
Starrex Mining Corp	Canada	82–3755
Starx Resource Corp	Canada	82–2039
Statoil	Norway	82–3444
Stef International Corp	Canada	82–4070
Stilfontein Gold Mining Co	South Africa	82–301
Stina Resources Ltd	Canada	82–2062
Stocks and Stocks Ltd	South Africa	82–3963
Stralak Resources Ltd	Canada	82–976
Stratabound Minerals Corp	Canada	82–3284
Stratcomm Media Ltd	Canada	82–1778
Stressgen Biotechnologies Corp	Canada	82–3776
Strike Energy Inc	Canada	82–2659
Striker Resources N.L	Australia	82–3585
Stryker Resources Ltd	Canada	82–883
Sumitomo Metal Industries Ltd	Japan	82–3507
Summit Resources Ltd	Canada	82–2922
Summo Minerals Corp	Canada	82–3971
Sun Free Enterprises Ltd	Canada	82–2822
Sun Hung Kai Properties Ltd	Hong Kong	82–1755
Sungold Gaming Inc	Canada	82–2157
Suntree Investments International Corp	Canada	82–2031
Svedala Industri A.B	Sweden	82–3593
Swedbank	Sweden	82–4092
Swire Pacific Ltd	Hong Kong	82–2184
Swiss Bank Corp	Switzerland	82–3567
Synapse Software Inc	Canada	82–3642
Synex International Inc	Canada	82–862
T&H Resources Ltd	Canada	82–2669
THC Medical Inc	Canada	82–3356
TI Group PLC	United Kingdom	82–2697
Tabcorp Holdings Ltd	Australia	82–3841
Tai Cheung Holdings Ltd	Bermuda	82–3528
Talisman Energy Inc	Canada	82–3710
Tappit Resources Ltd	Canada	82–3813
Tarron Industries Ltd	Canada	82–1881
Tata Enginnering and Locomotive Co	India	82–3768
Tata Hydro-Electric Power Supply Co	India	82–3704
Tata Power Company	India	82–3733
Tate & Lyle PLC	United Kingdom	82–905
Taylor Rand Inc	Canada	82–3635
Techtronic Industries Co	Hong Kong	82–3648
Tecnip	France	82–3959
Teijin Ltd	Japan	82–1266
Teijin Seiki Co	Japan	82–1493
Tele 2000 S.A	Peru	82–3866
Telesis Industrial Group	Canada	82–2977
Telesoft Moble Data Inc	Canada	82–3727
Television Broadcasts Ltd	Hong Kong	82–1072
Telstra Corp	Australia	82–3562
Teollisuuden Voima Oy	Finland	82–2973
Termbray Industries Int'l Holdings Ltd	Bermuda	82–4103
Tesco PLC	United Kingdom	82–3277
Teuton Resources Corp	Canada	82–1394
Thai Petrochemical Industry	Thailand	82–4108
Thai Telephone and Telecommunications	Thailand	82–3744
The Art of Animation Galleries Ltd	Canada	82–4063
The Bidvest Group Ltd	South Africa	82–4041
The Burton Group PLC	United Kingdom	82–1498
The Flowerman Group Inc	Canada	82–3935
The Premier Group Ltd	South Africa	82–3892
Thorn EMI Ltd	United Kingdom	82–373
Tiomin Resources Inc	Canada	82–3430

Issuer name	Country	File No.
Toba Gold Resources	Canada	82–2966
Tofas Turk Otomobil	Turkey	82–3699
Tombstone Explorations Co	Canada	82–3624
Tomra Systems A/S	Norway	82–3334
Topaz Resources International	Canada	82–1285
Topper Gold Corp	Canada	82–2694
Toronto Dominion Bank	Canada	82–142
Toyobo Co	Japan	82–1172
Toyota Motor Co	Japan	82–208
Tracker Software International Inc	Canada	82–3884
Trafalgar House PLC	United Kingdom	82–1894
Trans Atlantic Enterprises	Canada	82–1692
Trans Hex Group Ltd	South Africa	82–4011
Transportadora de Gas del Norte S.A	Argentina	82–3845
Trellis Technology Corp	Canada	82–2115
Treminco Resources Ltd	Canada	82–1384
Trend Set Industries International Inc	Canada	82–3825
Trillion Resources Ltd	Canada	82–3630
Trimin Resources Inc	Canada	82–1833
Trinidad Cement Ltd	Trinidad	82–3992
Trinity International Holdings PLC	United Kingdom	82–3043
Trio Gold Corp	Canada	82–2127
Trove Investment Corp	Canada	82–2476
Troymin Resources Ltd	Canada	82–3503
Truly International Holdings	Cayman Islands	82–3700
Trust Company of Australia Ltd	Australia	82–1443
Tsingtao Brewery Company Ltd	China	82–4021
Turkiye Garanti Bankasi	Turkey	82–3636
Tusk Resources Inc	Canada	82–3297
Twin Star Energy Corp	Canada	82–2213
Tycoon Ventures Inc	Canada	82–3468
Tyler Resources Inc	Canada	82–3881
USA Video Corporation	Canada	82–1601
Unibanco Uniao de Bancos Brasileiros	Brazil	82–3353
Unicomm Signal Inc	Canada	82–2787
Unidex Communications Corp	Canada	82–3130
Union Bank of Switzerland	Switzerland	82–3804
Union Miniere S.A	Belgium	82–3876
Unique Force Enterprises Inc	Canada	82–1927
Unisel Gold Mines Ltd	South Africa	82–236
Unitech PLC	United Kingdom	82–2412
United Biscuits PLC	United Kingdom	82–3079
United Engineers (Malaysia)	Malaysia	82–3816
United Film & Video Holdings Ltd	Canada	82–3859
United Overseas Land Ltd	Singapore	82–2180
United Rayore Gas Ltd	Canada	82–747
Unitor Ship Service A.S	Norway	82–3020
Univa Inc	Canada	82–2570
Universal Gun Loc Industries Ltd	Canada	82–828
Universal Trident Industries Ltd	Canada	82–3026
Upton Resources Inc	Canada	82–3290
Urban Juice & Soda Co	Canada	82–2633
Usinas Siderurgicas de Minas Gerais S.A	Brazil	82–3902
Utility Cable PLC	United Kingdom	82–3952
VA Technologie AG	Austria	82–3910
Vaal Reefs Exploration & Mining Co	South Africa	82–56
Valeo S.A	France	82–3668
Valerie Gold Resources	Canada	82–3339
Valmet Oy	Finland	82–3968
Van City Cultured Marble Products Ltd	Canada	82–3052
Vanguard Petroleum Ltd	Australia	82–3478
Varitronix International Ltd	Bermuda	82–3820
Vedron Gold Inc	Canada	82–816
Veitscher Magnesitwerke AG	Austria	82–1573
Velcro Industries N.V	Neth. Ant	82–145
Venoro Gold Corp	Canada	82–2178
Venture Pacific Development Corp	Canada	82–2596
Vera Cruz Minerals Corp	Canada	82–2840
Verdstone Gold Corp	Canada	82–1735
Viceroy Resources Corp	Canada	82–1193
Vickers PLC	United Kingdom	82–1359
Vidatron Enterprises Ltd	Canada	82–2086
Vidatron Group Inc	Canada	82–2086
Video Chile S.A	Chile	82–3851

Issuer name	Country	File No.
Virtual Universe Corp	Canada	82–3467
Virtuality Group PLC	United Kingdom	82–3684
Volkswagen AG	Germany	82–2188
Vortex Energy & Minerals Ltd	Canada	82–3462
Vtech Holdings Ltd	Bermuda	82–3565
Wace Group PLC	United Kingdom	82–2369
War Eagle Mining Co	Canada	82–2008
Webco Europe S.A	Luxembourg	82–3975
Welkom Gold Holdings Ltd	South Africa	82–57
West Rand Consolidated Mines Ltd	South Africa	82–314
West-Mar Resources Ltd	Canada	82–751
Western Areas Gold Mining Co	South Africa	82–268
Western Canadian Land Corp	Canada	82–1446
Western Copper Holdings Ltd	Canada	82–3422
Western Deep Levels Ltd	South Africa	82–58
Western Garnet Company	Canada	82–2637
Western Keltic Mines Inc	Canada	82–4024
Westley Technologies	Canada	82–1088
Westpine Metals Ltd	Canada	82–3116
Wex Technologies Inc	Canada	82–3304
Wheelock and Co	Hong Kong	82–3789
Whisky Creek Resources Inc	Canada	82–3875
White Knight Resources Ltd	Canada	82–2850
Williams Creek Explorations Ltd	Canada	82–3146
Willow Resources Ltd	Canada	82–3843
Windarra Minerals Ltd	Canada	82–561
Windsor Court Holdings Inc	Canada	82–3495
Winkelhaak Mines Ltd	South Africa	82–221
Winslow Gold Corp	Canada	82–1802
Winzen International Inc	Canada	82–1173
Wo Kee Hong (Holdings) Ltd	Hong Kong	82–3990
Wolters Kluwer N.V	Netherlands	82–2683
Woodside Petroleum Ltd	Australia	82–2280
Wooltru Ltd	South Africa	82–3863
Woolworths Ltd	Australia	82–3544
World Wide Minerals Ltd	Canada	82–2444
Worthing Industries Inc	Canada	82–3253
Wrightson NMA Ltd	New Zealand	82–3646
X-Cal Resources Ltd	Canada	82–1655
Yeebo (International Holdings) Ltd	Bermuda	82–3869
Yellowjack Resources Ltd	Canada	82–1765
Yiu Wing International Holdings Ltd	Bermuda	82–3655
York Centre Corp	Canada	82–2816
Yorkshire Electricity Group PLC	United Kingdom	82–3034
Young-Shannon Gold Mines Ltd	Canada	82–2928
Yukon Revenue Mines Ltd	Canada	82–3779
Yukong Ltd	Korea	82–3901
Yuma Gold Mines Ltd	Canada	82–3050
Zanex N.L.	Australia	82–932
Zodiac Hurricane Marine Inc	Canada	82–1281

[FR Doc. 95–22801 Filed 9–13–95; 8:45 am]
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[Release No. 34–36206; File No. SR–DTC–95–12]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Extension of the Payment of Rebates to Paying Agents During the Conversion to a Same-day Funds Payment Standard

September 8, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 14, 1995, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–DTC–95–12) as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1) (1988).

I. Self-Regulatory Organization Statement of the Terms of Substance of the Proposed Rule Change

DTC is extending until October 1, 1996, the payment of rebates to qualifying agents that pay municipal interest and corporate and municipal redemptions in same-day funds on the payable date.[2]

[2] The Commission previously approved a proposed rule change filed by DTC in which the rebate payments were to end on July 31, 1996. Securities Exchange Act Release No. 35649 (April 26, 1995), 60 FR 21576 [File No. SR–DTC–94–19] (order approving a proposed rule change implementing new guidelines for principal and income payments in a same-day funds environment).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose, of, and Statutory Basis for, the Proposed Rule Change

In DTC's next-day funds settlement system and prior to the implementation of the Group of Thirty's principal and income payment guidelines,[4] paying agents generally made payments in same-day funds to DTC for corporate income payments (*e.g.*, dividends and interest) and reorganization actions (*e.g.*, tenders and exchanges) for a majority of issues. Although corporate and municipal redemption payments and municipal income payments could be paid in next-day funds, paying agents generally made these payments in same-day funds on payment date to ensure their timely arrival at DTC. DTC invested these funds overnight and rebated to the paying agents interest on the funds as compensation for holding the funds overnight.

DTC has paid such rebates for many years; however, once DTC converts to same-day funds settlement for all security issues, DTC will make all payments to its participants on the payable date in same-day funds. As a result, DTC will not have interest earned from overnight investing available to rebate to paying agents. Therefore, DTC determined that it would cease paying such rebates to paying agents. Recognizing that participants would benefit by receiving all their expected payments in same-day funds on the payable date and in order to give agents time in which to modify their business practices in order to compensate for the loss of the rebates, DTC initially proposed to continue to pay rebates from the date of the conversion to same-day funds settlement for all security issues through July 31, 1996. In order to accomplish this, DTC determined that it would charge to participants, in proportion to their holdings in each issue for which a rebate would apply, the funds needed to pay the rebates from the date of the conversion through July 31, 1996.

In order to give paying agents additional time in which to modify their practices and procedures, the members of the Same-Day Funds Payment Task Force of the U.S. Working Committee of The Group of Thirty Clearance and Settlement Project requested that DTC extend the payment of agent rebates from August 1, 1996, through September 30, 1996. Therefore, DTC now proposes to extend the payment of such rebates until September 30, 1996. With respect to payments made on or after October 1, 1996, charges to participants will no longer be made.

The rebates will not be applied to payments of corporate interest, dividends, and reorganizations for which the paying agents already pay DTC in same-day funds on the payable date and which currently are not subject to interest earning rebates. However, DTC will require that 100% of corporate interest, dividends, and reorganization payments be paid to DTC in same-day funds on the payable date by 2:30 p.m. Eastern Standard time.

DTC believes the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act[5] because the extension of the payment of rebates to paying agents during the modification of their business practices will foster cooperation and coordination among persons engaged in the clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe the proposed rule change will impact or impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments from DTC participants or others have not been solicited or received.

III. Date of effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) was provided to the Commission for its review at least five days prior to the filing date; and (4) does not become operative for thirty days from the date of its filing on August 14, 1995, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii)[6] of the Act and Rule 19b–4(e)(6)[7] thereunder. In particular, the Commission believes the proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the File No. SR–DTC–95–12 and should be submitted by October 5, 1995.

For the commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–22848 Filed 9–13–95; 8:45 am]

BILLING CODE 8010–01–M

[3] The Commission has modified the text of the summaries prepared by DTC.

[4] For a complete description of the principal and interest payment guidelines, refer to Securities Exchange Act Release No. 35649, supra note 2.

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78s(b)(3)(A)(iii) (1988).

[7] 17 CFR 240.19b–4(e)(6) (1994)

[8] 17 CFR 200.30–3(a)(12) (1994).

[Rel. No. IC–21342; 812–9568]

Alex, Brown Cash Reserve Fund, Inc., et al.; Notice of Application

September 8, 1995.

AGENCY: Securities and Exchange Commission (the ''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Alex, Brown Cash Reserve Fund, Inc.; Chestnut Street Exchange Fund; Municipal Fund for California Investors, Inc.; Municipal Fund for New York Investors, Inc.; Municipal Fund for Temporary Investment; The PNC Fund, Inc.; Portfolios for Diversified Investment Inc.; Provident Institutional Funds, Inc.; The RBB Fund, Inc.; Temporary Investment Fund, Inc.; Trust for Federal Securities; Warburg Pincus Cash Reserve Fund; Warburg Pincus New York Tax-Exempt Fund (the ''Existing Funds''); and all future registered management investment companies (or series thereof) for which PNC Institutional Management Corporation (''PIMC''), PNC Bank, N.A. (''PNC Bank'') or any entity controlling, controlled by, or under common control with PIMC or PNC Bank serves as investment adviser (the ''Future Funds'' and together with the Existing Funds, the ''Funds'').

RELEVANT ACT SECTIONS: Order requested under sections 6(c) and 17(b) of the Act to exempt applicants from the provisions of sections 17(a)(1), 17(a)(2), and 17(e)(1) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the Funds to engage in transactions with banks, bank holding companies, and affiliated persons thereof that are ''affiliated persons'' of a Fund solely because they own, hold, or control five percent or more of the outstanding voting securities of a Fund and/or act as investment adviser to a Fund. No Fund will engage, however, in such transactions with a bank, bank holding company, or an affiliated person thereof that controls, advises, or sponsors that Fund. The purchase and sale transactions would be limited to certain types of high quality debt securities and repurchase agreements meeting specified standards. The requested order would supersede a prior order.

FILING DATES: The application was filed on April 13, 1995, and amended on July 24, 1995. Applicants have agreed to file an additional amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 3, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, c/o PNC Bank, N.A., Land Title Building, Broad & Chestnut Streets, Philadelphia, Pennsylvania 19110.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Existing Funds are, and the Future Funds will be, registered management investment companies, PIMC or PNC Bank serve as investment adviser to each Existing Fund, and will serve as investment adviser to each Future Fund.

2. In 1984 the SEC issued an order granting an exemption from sections 17(a)(1), 17(a)(2), and 17(e)(1) of the Act to permit the Funds to engage in certain transactions with Affiliated Banks (the ''1984 Order'').[1] ''Affiliated Banks'' for purposes of the 1984 Order and the order requested hereby are banks, bank holding companies, and affiliated persons thereof that are affiliated persons of a Fund solely because they directly or indirectly own, control, or hold five percent or more of the outstanding voting securities of a Fund, and/or act as investment adviser to a Fund.

3. The 1984 Order permits the applicant funds to engage in transactions with Affiliated Banks involving the following instruments: (a) Money market instruments of an Affiliated Bank that is one of the fifty largest United States banks (measured by deposits); (b) repurchase agreements with no more than twelve Affiliated Banks that are among the fifty largest United States banks (measured by deposits); and (c) tax-exempt obligations (transactions with Affiliated Banks covered by the terms of the 1984 Order are hereinafter referred to as the ''Covered Transactions''). The 1984 Order also permits an Affiliated Bank to accept compensation from the applicant funds, subject to the limitations of section 17(e)(2) of the Act, if such bank acts as agent for one of the funds in a Covered Transaction.

4. Applicants now request an order that would supersede the 1984 Order and permit the Funds to engage in transactions with Affiliated Banks involving the following ''Qualified Securities:'' (a) Money market instruments and other taxable obligations issued by, or purchased from or sold to an Affiliated Bank; (b) tax-exempt obligations purchased from or sold to an Affiliated Bank; (c) U.S. government securities from Affiliated Banks that are primary dealers in these securities (''Affiliated Dealers'') and (d) repurchase agreements.

5. In addition, all Qualified Securities will meet the following credit standards:

a. For obligations that have a remaining maturity of 397 days or less, each such security shall constitute an ''Eligible Security'' within the meaning of rule 2a–7; provided, that, in the case of Unrated Securities (as defined in rule 2a–7(a)(20)), in addition to the requirements of rule 2a–7 applicable to such Unrated Securities, all determinations with respect to the comparability of such securities to rated securities are also reviewed and approved at least quarterly by a majority of the Fund's directors who are not interested persons of the Fund.

b. For obligations that have a remaining maturity of more than 397 days, each such security (or another long-term security of the same issuer having comparable priority and security to such obligation) shall have been rated by a nationally-recognized statistical rating organization (''NRSRO'') in one of the four highest rating categories for long-term obligations; or, if the security and issuer have not been rated by an NRSRO, are determined by the Fund's investment adviser to be comparable in credit quality to a security carrying a long-term rating in one of such four highest rating categories of a NRSRO, and such determination is reviewed and approved at least quarterly by a majority of the Fund's directors who are not interested persons of the Fund.

[1] The Arch Fund, Inc., Investment Company Act Release Nos. 14016 (June 27, 1984) (notice) and 14064 (July 25, 1984) (order).

c. Any repurchase agreements will be collateralized fully within the meaning of rule 2a–7.

d. For obligations subject to unconditional, irrevocable credit enhancement (including, without limitation, a guarantee, letter of credit or put), the Funds may rely upon the NRSRO ratings of the provider of such credit enhancement to determine whether the obligation satisfies the requirements of paragraphs (a) and (b) above. Such obligations shall be treated as rated securities to the extent that the credit enhancement is of comparable priority and security to the rated obligations of the provider of such credit enhancement.

6. Applicants also request relief to permit an Affiliated Bank to accept compensation within the limitations of section 17(e)(2) of the Act where it acts as agent for any Fund in connection with the purchase or sale of Qualified Securities.

Applicants' Legal Analysis

1. Sections 17(a)(1) and 17(a)(2) of the Act prohibit affiliated persons of the Funds, or affiliated persons of such affiliated persons, acting as principal, knowingly to sell or purchase any securities to or from the Funds. Sections 2(a)(3)(A), (B), and (C) of the Act define an ''affiliated person'' of another person as, respectively: (a) Any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting securities of such other person; (b) any person five percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; and (c) any person directly or indirectly controlling, controlled by or under common control with, such other person.

2. By virtue of section 2(a)(3)(A), if a bank owns, controls or holds with power to vote five percent or more of the outstanding voting shares of one of the Funds, that bank could be considered an affiliated person of that Fund. Furthermore, any person who is an affiliated person of a registered investment company also may be deemed to be affiliated with each other registered investment company which has a common investment adviser, or investment advisers which are affiliated persons of each other, or common directors of common officers, or a combination of the foregoing, because such investment companies may be deemed to be under common control. Accordingly, a bank, bank holding company, or affiliated person thereof that is deemed to be an Affiliated Bank in respect of one Fund by virtue of its ownership of such Fund's shares may be deemed to be affiliated with all the Funds. The result of the operation of these provisions is to prohibit all of the Funds from engaging in any principal transaction in securities, including repurchase agreements and U.S. government securities, with a wide range of banks, bank holding companies, and affiliates thereof.

3. If an Affiliated Bank is also a primary dealer or an affiliated person of a primary dealer, the dealer then becomes an Affiliated Dealer. In addition, sections 2(a)(3)(B) and (C) cause a primary dealer which is a subsidiary of an Affiliated Bank, or which is controlled by the same holding company as an Affiliated Bank (or otherwise under common control with the Affiliated Bank), to be an affiliated person of the Affiliated Bank. The primary dealer then is an affiliated person of an affiliated person of the Funds.

4. The Funds believe the applicability of sections 17(a)(1) and 17(a)(2) to transactions between the Funds and Affiliated Banks in Qualified Securities unreasonably reduces the range of available investment alternatives. The inability to effect transactions in Qualified Securities With Affiliated Banks unduly impairs an investment adviser's flexibility in portfolio management, and deprives the Funds of the ability to purchase and sell otherwise proper portfolio securities.

5. Applicants state that the Funds will continue to apply existing internal control procedures that are designed to monitor securities transactions with Affiliated Banks by placing primary responsibility for the reasonableness and fairness of those transactions on the Funds' board of directors or trustees, or other governing bodies (''Governing Boards''). In addition to existing controls, applicants state that they will impose stringent credit quality requirements on the securities that a Fund may purchase from an Affiliated Bank. By limiting transactions with Affiliated Banks to certain Qualified Securities, applicants believe that focus is placed on the merits of a particular investment and that the Funds and their advisers will be subjected to a disciplined determination regarding whether a particular transaction is appropriate for a Fund. Finally, applicants believe that because Qualified Securities will be liquid, high-quality securities, an Affiliated Bank will be unable to exercise any improper influence without detection by the Funds' Governing Boards.

6. Applicants state that no fund will engage in transactions with an Affiliated Bank that serves as investment adviser (including sub-adviser) or sponsor to such Fund. Moreover, no Fund will engage in transactions in Qualified Securities with any Affiliated Bank that controls such Fund within the meaning of section 2(a)(9) of the Act.

7. PIMC and PNC Bank represent that there is no express or implied understanding between PIMC and PNC Bank and any bank, bank holding company or affiliated person thereof that is (or may become) an Affiliated Bank of a Fund that applicants will cause any of the Funds to enter into purchase or sale transactions in Qualified Securities with such entity. Moreover, applicants represent that they will give no preference to any Affiliated Bank in effecting purchase or sale transactions between the Funds and an Affiliated Bank that involve Qualified Securities issued by or purchased from or sold to such Affiliated Bank or because the customers of such bank purchase shares of any of the funds.

8. Section 17(e)(1) of the Act prohibits any affiliated person of a registered investment company, or any affiliated person of such person, when acting as agent from accepting from any source any compensation (other than a regular salary or wages from such registered company) for the purchase or sale of any property to or for such registered company, except in the course of such person's business as an underwriter or broker.

9. Banks are specifically excluded from the definition of a broker in section 2(a)(6) of the Act. In addition, applicants state that it would be highly improbable for a bank to satisfy the definition of underwriter in section 2(a)(40) with respect to each securities transaction involving an investment company where the bank was asked to act as agent for the investment company. Thus, a bank that is an Affiliated Bank may be prohibited from accepting any consideration whatsoever in connection with a brokerage transaction where it acted as agent for the Fund. In addition, if an Affiliated Dealer is not a separate entity from the Affiliated Bank, and acts as agent for a Fund, section 17(e)(1) also may apply to prohibit an Affiliated Dealer from receiving compensation in U.S. government securities or municipal securities transactions.

10. Applicants state that the transactions will comply with section 17(e)(2).[2] In addition, applicants state

[2] Section 17(e)(2) permits an affiliated broker of a registered investment company to receive

that the use of Affiliated Banks promotes investment flexibility by expanding the range of entities available for execution of securities transactions.

11. Section 17(b) of the Act provides that the SEC may exempt a transaction from the prohibitions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act.

12. Section 6(c) of the Act provides that the SEC may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.[3]

13. Applicants submit that the terms and conditions set forth herein are reasonable and fair and do not involve overreaching on the part of any person, that they are consistent with the policy of each of the Funds, that they are consistent with the general purposes of the Act, and that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions

Applicants agree that any order will be subject to the following conditions:

1. The funds will engage in transactions with Affiliated Banks only in Qualified Securities.

2. No Fund will engage in a transaction in Qualified Securities with an Affiliated Bank that is an investment adviser or sponsor to that Fund or an Affiliated Bank controlling, controlled by, or under common control with such investment adviser or sponsor. No Fund will purchase obligations of any Affiliated Bank (other than repurchase agreements) if, as a result, more than 5% of that Fund's total assets would be invested in obligations of that Affiliated Bank. No Fund will engage in transactions in Qualified Securities with an Affiliated Bank that exercises a controlling influence over that Fund (and ''controlling influence'' shall be deemed to include, but is not limited to, directly or indirectly, owning, controlling, or holding more than 25% of the outstanding voting securities of the Fund).

3. The Funds: (a) Will maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraphs (1) and (2) of this section; and (b) will maintain and preserve for a period of not less than six years from the end of the fiscal year in which transactions in Qualified Securities occurred, the first two years in an easily accessible place, a written record of each such transaction setting forth a description of the security purchased or sold, the identity of the person on the other side of the transaction, the terms of the purchase or sale transaction, and the information or material upon which the determinations described below were made.

4. The Qualified Security to be purchased or sold by a Fund will be consistent with the investment objectives and policies of that Fund as recited in the Fund's registration statement, and will be consistent with the interests of that Fund and its shareholders. Further, the security to be purchased or sold by that Fund will be comparable in terms of quality, yield, and maturity to other similar securities that are appropriate for that Fund and that are being purchased or sold during a comparable period of time.

5. The terms of the transaction will be reasonable and fair to the shareholders of that Fund and will not involve overreaching on the part of any person concerned. In considering whether the price to be paid or received for the security is reasonable and fair, the price of the security will be analyzed with respect to comparable transactions involving similar securities being purchased or sold during a comparable period of time. In making this analysis, the Governing Board may rely on a matrix pricing system which it believes properly assists it in determining the value of securities pursuant to section 2(a)(41) of the Act.

6. The commission, fee, spread, or other remuneration to be received by the Affiliated Bank as dealer will be reasonable and fair compared to the commission, fee, spread or other remuneration received by other brokers or dealers in connection with comparable transactions involving similar securities being purchased or sold during a comparable period of time, but in no event will such fee, commission, spread or other remuneration exceed that which is stated in section 17(e)(2) of the Act.

7. The Governing Board of each of the Funds: (a) Will adopt procedures, pursuant to which transactions in Qualified Securities may be effected for the Funds, which are reasonably designed to provide that the conditions in the foregoing paragraphs and the requirements of Investment Company Act Release No. 13005 (Feb. 2, 1983) have been complied with; (b) will make and approve such changes as the Governing Board deems necessary; and (c) will determine no less frequently than quarterly that transactions in Qualified Securities made during the preceding quarter were effected in compliance with those procedures. Those procedures will also be approved by a majority of the disinterested Trustees or Directors of the Funds. The investment adviser of each Fund will implement those procedures and make decisions necessary to meet these conditions, subject to the direction and control of the Governing Board of each Fund.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–22851 Filed 9–13–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–21340; 812–8950]

Goldman Sachs Money Market Trust, et al.; Notice of Application

September 7, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order of exemption under the Investment Company Act of 1940 (''1940 Act'').

APPLICANTS: Goldman Sachs Money Market Trust (formerly Goldman Sachs-Institutional Liquid Assets), Trust For Credit Unions, Goldman Sachs Equity Portfolios, Inc., Goldman Sachs Trust, Financial Square Trust and Paragon Portfolio (collectively, the ''Funds'') and Goldman Sachs Funds Management, L.P., Goldman Sachs Asset Management International and Goldman, Sachs & Co. (collectively, ''Goldman Sachs''),[1] on

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compensation in connection with the sale of securities to or from the investment company under certain circumstances.

[3] Applicants seek relief under section 6(c) as well as section 17(b) because section 17(b) could be interpreted as giving the SEC power to exempt only a single transaction from section 17(a), as opposed to a class of transactions. See Keystone Custodian Funds, Inc., 21 S.E.C. 295 (1945).

[1] The term ''Goldman Sachs'' refers to all entities controlling, controlled by or under common control with Goldman Sachs & Co. and which serve as

Continued

behalf of themselves and any other investment company for which Goldman Sachs may act as investment adviser (which term includes a sub-adviser), administrator and/or distributor in the future.[2]

RELEVANT 1940 ACT SECTIONS: Exemption requested under sections 6(c) and 17(b) from the provisions of sections 17(a)(1) and 17(a)(2) of the 1940 Act.

SUMMARY OF APPLICATIONS: Applicants seek a conditional order to let the Funds engage in purchase and sale transactions limited to certain types of high quality debt securities and repurchase agreements meeting the standards set forth in Condition 1 below (''Qualified Securities'') with banks, bank holding companies and affiliates thereof that are ''affiliated persons'' of the Funds due solely to their owning, holding, or controlling a five percent or greater share interest in a Fund and/or acting as investment adviser to a Fund, except that no Fund will engage in such transactions with a bank, bank holding company, or an affiliate thereof that controls, advises or sponsors that Fund.

FILING DATES: The application was filed on April 22, 1994 and amended and restated on December 20, 1994, and May 25 and September 5, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 2, 1995, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, D.C. 20549. Applicants, 85 Broad Street, New York, NY 10004.

FOR FURTHER INFORMATION CONTACT: H.R. Hallock, Jr., Special Counsel, at (202) 942–0564, or C. David Messman, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Each of the Funds currently is organized as a business trust under Massachusetts law or as a corporation under Maryland law. Each of the Funds also has a currently effective registration statement under the 1940 Act and the Securities Act of 1933. Goldman Sachs serves as investment adviser, distributor and/or administrator to each Fund.

2. Several Funds are designed for institutional investors, particularly banks seeking investment of funds (frequently short-term monies) on behalf of accounts for which the banks act in an agency, trustee or other fiduciary capacity. Banks acting in such capacities normally purchase shares of the Funds through an omnibus or ''master'' account, and register such shares in the name of the bank or its nominee. In some cases, a bank may purchase Fund shares for its own account. Most of the institutionally oriented Funds are money market funds and short-term bond funds; as such the amount of a bank's holdings of shares therein can fluctuate significantly, even on a daily basis. From time to time, the number of shares of a Fund held by a bank may exceed five percent of a Fund's outstanding voting shares.

3. Applicants seek an exemption from sections 17 (a)(1) and (a)(2) to permit the Funds to engage in transactions in Qualified Securities with ''Affiliated Banks.'' For purposes of the application, the term ''Affiliated Banks'' is defined to mean banks, bank holding companies and affiliated persons thereof that are affiliated persons of any of the Funds solely because they directly or indirectly own, control or hold five percent or more of the outstanding voting securities of any of the Funds, or act as investment adviser to any of the Funds.

Applicants' Legal Analysis

1. Sections 17(a)(1) and 17(a)(2) of the 1940 Act prohibit affiliated persons of the Funds, or affiliated persons of such affiliated persons, acting as principal, knowingly to sell or purchase any securities to or from the Funds. Section 2(a)(3) of the 1940 Act defines an ''affiliated person'' of another person as, among other persons: (A) Any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting securities of such other person; (B) any person five percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; (C) any person directly or indirectly controlling, controlled by or under common control with, such other person; (D) any officer, director, partner, copartner or employee of such other person; and (E) if such other person is an investment company, any investment adviser thereof.

2. By virtue of section 2(a)(3)(A), if a bank owns, controls or holds with power to vote five percent or more of the outstanding voting shares of one of the Funds, that bank could be considered an affiliated person of that Fund. In addition, that bank's holding company and affiliated persons thereof likewise may be deemed to be affiliated persons of an affiliated person of that Fund by virtue of section 2(a)(3)(C). Furthermore, any person who is an affiliated person of a registered investment company also may be deemed to be affiliated with each other registered investment company which has a common investment adviser, or investment advisers which are affiliated persons of each other, or common directors or common officers, or a combination of the foregoing, because such investment companies may be deemed to be under common control. Accordingly, a bank, bank holding company, or affiliated person thereof that is deemed to be an Affiliated Bank in respect of one Fund by virtue of its ownership of such Fund's shares may be deemed to be an affiliated person of an affiliated person of all the Funds. The result of the operation of these provisions is to prohibit all of the Funds from engaging in any principal transaction in securities, including repurchase agreements and U.S. government securities, with a wide range of banks, bank holding companies and affiliates thereof.

3. Section 17(b) of the 1940 Act provides that the SEC may exempt a transaction from the prohibitions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the 1940 Act. Section 6(c) of the 1940 Act provides that the SEC may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the 1940 Act, if and to the extent such exemption is necessary or appropriate

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investment adviser, administrator and/or distributor to one or more existing or future registered investment companies.

[2] The term ''Funds'' includes such future registered investment companies.

in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.[3]

4. The Funds believe the applicability of sections 17(a)(1) and 17(a)(2) to transactions between the Funds and Affiliated Banks in Qualified Securities unreasonably reduces the range of available investment alternatives. The inability to effect transactions in Qualified Securities with Affiliated Banks deprives the Funds of the ability to purchase and sell portfolio securities that, absent the prohibitions of section 17(a), would be appropriate investments made under circumstances which do not involve a conflict of interest or other potential for abuse. Furthermore, the increasing involvement of banks (or affiliated persons thereof) in the markets for a variety of taxable and tax-exempt securities has increased the need for the Funds to be able to engage in transactions in Qualified Securities with Affiliated Banks.

5. Applicants believe that a bank, bank holding company or affiliated person thereof that is affiliated with a Fund solely because it owns, holds or controls five percent or more of a Fund's outstanding shares and/or acts as investment adviser to a Fund is unlikely to posses the power in fact to improperly influence a Fund with respect to purchases or sales by the Fund of securities from or to an Affiliated Bank. In this regard, as a condition to the relief requested, Applicants agree that no Fund will engage in transactions with an Affiliated Bank that serves as investment adviser (including sub-adviser) or sponsor to such Fund. Moreover, no Fund will engage in transactions in Qualified Securities with any Affiliated Bank which controls such Fund within the meaning of section 2(a)(9) of the 1940 Act. Applicants believe these conditions, in conjunction with the oversight to be provided, as a further condition to the relief requested, by the Boards of Directors/Trustees of the Funds, will preclude the possibility of overreaching by an Affiliated Bank. Applicants also submit that a limitation on the credit quality of the securities that may be purchased from an Affiliated Bank adequately addresses the concerns of section 17.

6. Goldman Sachs represents that there is no express or implied understanding between Goldman Sachs and any bank, bank holding company or affiliated person thereof which is (or may become) an Affiliated Bank of a Fund that Goldman Sachs will cause any of the Funds to enter into purchase or sale transactions in Qualified Securities with such entity. Moreover, Applicants represent that they will give no preference to any Affiliated Bank in effecting purchase of sale transactions between the Funds and an Affiliated Bank which involve Qualified Securities issued by or purchased from or sold to such Affiliated Bank or because the customers of such bank purchase shares of any of the Funds.

7. Applicants propose that the requested exemptive relief extend to include investment companies (and series thereof) for which Goldman Sachs does not act as investment adviser, but for which Goldman Sachs serves as distributor and/or administrator. As administrator, Goldman Sachs performs, assists in the performance of and/or supervises substantially all of various administrative services specified in the application on behalf of such investment company (or series thereof). Such services include, among others, assistance with the design, development and operation of a Fund, and the supervision of a Fund's custodian in the maintenance of the Fund's general ledger and in the preparation of the Fund's financial statements, including oversight of expense accruals and payments and of the determination of the net asset value of the Fund's assets and of the Fund's shares. Goldman Sachs also would develop uniform procedures and reports to allow each Fund's Board of Directors or Trustees to monitor compliance with the requirements of the 1940 Act, including compliance with section 17(a).

Applicants' Condition

If the requested order is granted, Applicants agree to the following conditions:

1. The Funds will engage in transactions with Affiliated Banks only in Qualified Securities. For purposes hereof, the term Qualified Securities is defined to mean:

(a) For obligations which have a remaining maturity of 397 days or less, each such security shall constitute an ''Eligible Security'' within the meaning of rule 2a–7; provided, that, in the case of Unrated Securities (as defined in rule 2a–7(a)(20)), in addition to the requirements of rule 2a–7 applicable to such Unrated Securities, all determinations with respect to the comparability of such securities to treated securities are also reviewed and approved at least quarterly by a majority of the Fund's Trustee/Directors who are not interested persons of the Fund.

(b) For obligations which have a remaining maturity of more than 397 days, each such security (or another long-term security of the same issuer having comparable priority and security to such obligation) shall have been rated by a nationally-recognized statistical rating organization (''NRSRO'') in one of the four highest rating categories for long-term obligations; or, if the security and issuer have not been rated by any NRSRO, are determined by the Fund's investment adviser to be comparable in credit quality to a security carrying along-term rating in one of such four highest rating categories of a NRSRO, and such determination is reviewed and approved at least quarterly by a majority of such Fund's Directors/ Trustees who are not interested persons of the Fund.

(c) Any repurchase agreements will be collateralized fully within the meaning of rule 2a–7.

(d) For obligations subject to unconditional, irrevocable credit enhancement (including, without limitation, a guarantee, letter of credit or put), the Funds may rely upon the NRSRO ratings of the provider of such credit enhancement to determine whether the obligation satisfies the requirements of paragraphs (a) and (b) above. Such obligations shall be treated as rated securities to the extent that the credit enhancement is of comparable priority and security to the rated obligations of the provider of such credit enhancement.

2. No Fund will engage in any transaction in Qualified Securities with an Affiliated Bank that is an investment adviser or sponsor to that Fund or an Affiliated Bank controlling, controlled by, or under common control with such investment adviser or sponsor. No Fund will engage in transactions in Qualified Securities with an Affiliated Bank that exercises a controlling influence over that Fund (and ''controlling influence'' shall be deemed to include, but is not limited to, directly or indirectly, owning, controlling or holding more than 25 percent of the outstanding voting securities of the Fund). No Fund will purchase Qualified Securities of any Affiliated Bank (other than repurchase agreements) if, as a result, more than five percent of that Fund's total assets would be invested in Qualified Securities of that Affiliated Bank.

3. The Funds (a) will maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in Condition 6 below, and (b) will maintain and preserve for

[3] Applicants seek relief under section 6(c) as well as section 17(b) because section 17(b) could be interpreted as giving the SEC power to exempt only a single transaction from section 17(a), as opposed to a class of transactions.

a period of not less than six years from the end of the fiscal year in which any transactions with Affiliated Banks occurred, the first two years in an easily accessible place—a written record of each transaction in Qualified Securities setting forth a description of the security purchased or sold, the identify of the person on the other side of the transaction, the terms of the purchase or sale transaction and the information or materials upon which the determinations described below were made.

4. The Qualified Securities to be purchased or sold by a Fund will be consistent with the investment objectives and policies of that Fund as recited in the Fund's registration statement, and will be consistent with the interests of that Fund and its shareholders.

5. The terms of the transactions must be reasonable and fair to the shareholders of that Fund and cannot involve overreaching of that Fund or its shareholders on the part of any person concerned. In considering whether the price to be paid or received for a Qualified Security is reasonable and fair, the price of the security will be analyzed with respect to comparable transactions involving similar securities being purchased or sold during a comparable period of time. A Qualified Security to be purchased or sold by that Fund must be comparable in terms of quality, yield and maturity to other similar securities that are appropriate for that Fund and that are being purchased or sold during a comparable period of time. In making this analysis, the Board of Trustees/Directors may rely on a matrix pricing system which they believe properly assists them in determining the value of securities pursuant to section 2(a)(41) of the 1940 Act.

6. The Board of Trustees/Directors of each of the Funds (including at least a majority of the disinterested members) will (a) adopt procedures, pursuant to which transactions in Qualified Securities may be effected for the Funds, which are reasonably designated to provide that all the requirements of Conditions 1 through 5 above and the requirements of Investment Company Act Release No. 13005 (Feb. 2, 1983) have been complied with, (b) review no less frequently than annually such procedures for their continuing appropriateness, and (c) determine no less frequently than quarterly that such transactions in Qualified Securities made during the preceding quarter were effected in compliance with such procedures. The investment adviser (or sub-adviser if Goldman Sachs is the sub-adviser) of each Fund will implement these procedures and make decisions necessary to meet these conditions, subject to the direction and control of the Board of Trustees/Directors of each Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–22803 Filed 9–13–95; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Handleman Company, Common Stock $(0.01 Par Value) No. 1–7923

September 8, 1995.

Handleman Company (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities (''Securities'') from listing and registration on the Chicago Stock Exchange, Incorporated (''CHX'') and the Pacific Stock Exchange Incorporated (''PSE'').

The reasons alleged in the application for withdrawing the Securities from listing and registration include the following:

According to the Company, the Executive Committee of the Board of Directors of the Company (''Committee''), pursuant to lawfully delegated authority, unanimously approved a resolution on April 26, 1995 to withdraw the Security's listing on the CHX and the PSE and to maintain its listing and registration on the New York Stock Exchange, Inc. (''NYSE''). The decision of the Committee followed a study of the matter, and was based upon the belief that the listings on the CHX and the PSE were no longer beneficial to the Company because: (1) Listing the Security on the CHX, the PSE, and the NYSE was no longer cost effective in light of the low annual trading volume of the Security on the CHX and the PSE; (2) the presence of a substantial national and liquid market for the Security on the NYSE; and (3) the continuing need for the Company to reduce the costs of doing business in the current competitive environment in which the Company operates.

Any interested person may, on or before September 29, 1995 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–22845 Filed 9–13–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21343; No. 812–9594]

Hartford Life Insurance Company, et al.

September 8, 1995.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order under the Investment Company Act of 1940 (''1940 Act'').

APPLICANTS: Hartford Life Insurance Company (''Hartford''), Hartford Life Insurance Company–ICMG Secular Trust Separate Account (''Separate Account''), and Hartford Equity Sales Company, Inc. (''HESCO'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act granting exemptions from the provisions of Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the deduction of a mortality and expense risk charge from the assets of the Separate Account or any other separate account (''Other Accounts'') established by Hartford to support certain group flexible premium deferred annuity contracts and individual certificates thereunder (''Contracts'') as well as other variable annuity contracts that are substantially similar in all material respects to the Contracts (''Future Contracts''). In addition, Applicants propose that the order extend the same exemptions granted to HESCO to any other broker-dealer that may in the future serve as principal underwriter for the Contracts or Future Contracts. Any such broker-dealer will be registered under the Securities Exchange Act of 1934 as a broker-dealer and will be a member of the National Association of Securities Dealers, Inc. (''NASD'').

FILING DATE: The application was filed on May 11, 1995, and amended on August 10, 1995 and September 5, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 27, 1995, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Applicants, Scott K. Richardson, Esq., ITT Hartford Life Insurance Companies, 200 Hopmeadow Street, Simsbury, CT 06070.

FOR FURTHER INFORMATION CONTACT: Pamela K. Ellis, Senior Counsel, or Wendy Finck Friedlander, Deputy Chief, both at (202) 942–0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Hartford, a stock life insurance company, is organized in Connecticut and licensed to do business in all states of the United States and in the District of Columbia.

2. The Separate Account is a separate account established by Hartford to fund the Contracts. The Separate Account is registered with the Commission as a unit investment trust under the 1940 Act, and interests in the Contracts are registered as securities under the Securities Act of 1933.

3. Hartford has established for each investment option offered under the Contract a Separate Account subaccount (''Subaccount''), which will invest solely in a specific corresponding portfolio of certain designated investment companies (''Funds''). The Funds will be registered under the 1940 Act as open-end management investment companies. Each portfolio of the Funds will have separate investment objectives and policies.

4. HESCO will serve as the principal underwriter of the Contracts. HESCO, a wholly-owned subsidiary of Hartford, is registered under the 1934 Act as a broker-dealer and is a member of the NASD.

5. The Contracts are tax-deferred individually allocated group flexible premium deferred annuity contracts, and are offered to employee-participants of nonqualified deferred compensation and supplemental executive retirement plans. The Contacts may be purchased with an initial premium payment of $1,000. The minimum subsequent premium payment for the Contracts is $1000 (certain plans may permit smaller initial and subsequent periodic premium payments). Net premium payments may be allocated to one or more of the Separate Account Subaccounts that have been established to support the Contracts.

6. The Contracts provide for a series of annuity payments beginning on the annuity date. The Contract owner may select from several annuity payout options.

7. The Contracts provide for a death benefit if the annuitant dies during the accumulation period or prior to the annuitant or Contract owner attaining age 85. The death benefit is the greater of: (1) the Contract value as determined on the date of receipt of due proof of death by Hartford; or (2) 100% of all premium payments made by the Contract owner under the Contract reduced by the amount of any partial withdrawals.

8. Certain charges and fees are assessed under the Contracts. Hartford will deduct an administration charge from a Contract owner's account value to reimburse it for expenses relating to the administration and maintenance of the Contract and for administration of the Separate Account. The Contract provides for an administrative expense charge of $2.50 to be deducted from account value on the commencement date of the Contract and monthly thereafter. The deduction will be made pro rata according to the value in each Subaccount under a Contract.

9. Applicants represent that the administration charge will not increase during the life of the Contracts. In addition, Applicants represent that these charges are at cost with no anticipation of profit.

10. A maximum front-end sales charge of 4.6% of premium payments, will be imposed for expenses related to the sales and distribution of the Contracts. Applicants state that the front-end sales charge will not increase during the life of the Contracts.

11. Hartford proposes to deduct a daily mortality and expense risk charge. Hartford represents that this charge is equal to an effective annual rate of .65% of the net asset value of the Separate Account, and that it will not increase. Of this amount, approximately .45% is for mortality risks and .20% is for expense risks.

12. Hartford assumes the mortality risk that the life expectancy of the annuitant will be greater than that assumed in the guaranteed annuity purchase rates, thus requiring Hartford to pay out more in annuity income than it had planned. In addition, Hartford is contractually obligated to provide a death benefit prior to the annuity date. Thus, Hartford assumes the risk that the owner may die at a time when the amount of the death benefit payable exceeds the then net surrender value of the Contracts. The expense risk assumed by Hartford is that the contract administration charge will be insufficient to cover the cost of administering the Contracts.

13. In the event the mortality and expense risk charges are more than sufficient to cover Hartford's costs and expenses, any excess will be a profit to Hartford.

14. Should the owner live in a jurisdiction that levies a premium tax, Hartford will pay the taxes when due. Hartford represents that state premium taxes may range up to 4.0% of premium payments and are subject to change. Hartford will deduct premium taxes when they are paid.

15. In addition Hartford will deduct a current charge of .43% of each premium payment for the federal tax cost resulting from Section 848 of the Internal Revenue Code. This charge may be increased or decreased to reflect changes in federal tax laws.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision, rule or regulation of the 1940 Act to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in relevant part, prohibit a registered unit investment trust, its depositor or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangements which prohibit

any payment to the depositor or principal underwriter except a reasonable fee, as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

3. Applicants request exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction from the net assets of the Separate Account and the Other Accounts in connection with the Contracts and Future Contracts of the .65% charge for the assumption of mortality and expense risks. In addition, Applicants request that the order extend the same exemptions granted to HESCO to any other broker-dealer that may in the future serve as principal underwriter for the Contracts or Future Contracts.

4. Applicants assert that the terms of the relief requested with respect to any Future Contracts funded by the Separate Account or Other Accounts are consistent with the standards enumerated in Section 6(c) of the 1940 Act. Without the requested relief, Applicants would have to request and obtain exemptive relief for each new Other Account it establishes to fund any Future Contract, as well as for each Future Broker-Dealer that distributes the Contract or Future Contracts. Applicants submit that any such additional request for exemption would present no issues under the 1940 Act that have not already been addressed in this application, and that investors would not receive any benefit or additional protections thereby.

Applicants submit that the requested relief is appropriate in the public interest because it would promote competitiveness in the variable annuity contract market by eliminating the need for Applicants to file redundant exemptive applications, thereby reducing their administrative expenses and maximizing the efficient use of their resources. The delay and expense involved in having repeatedly to seek exemptive relief would reduce Applicants' ability effectively to take advantage of business opportunities as they arise.

Applicants further submit that the requested relief is consistent with the purposes of the 1940 Act and the protection of investors for the same reasons. Applicants thus assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

5. Applicants represent that the .65% per annum mortality and expense risk charge is within the range of industry practice for comparable annuity contracts. This representation is based upon an analysis of publicly available information about similar industry products, taking into consideration such factors as the current charge levels and benefits provided, the existence of expense charge guarantees, and guaranteed annuity rates. Hartford will maintain at its principal offices, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, Applicants' comparative review. In addition, Applicants will keep, and make available to the Commission, a memorandum setting forth the basis for the same representations with respect to the Future Contracts offered by the Separate Account or Other Accounts.

6. Hartford has concluded that there is a reasonable likelihood that the Separate Accounts and Other Accounts' proposed distribution financing arrangements will benefit the Separate Accounts and their investors. Hartford represents that it will maintain and make available to the Commission upon request a memorandum setting forth the basis of such conclusion.

7. The Separate Accounts and Other Account will be invested only in management investment companies that undertake, in the event the company should adopt a plan for financing distribution expenses pursuant to Rule 12b–1 under the 1940 Act, to have such plan formulated and approved by the company's board members, the majority of whom are not ''interested persons'' of the management investment company within the meaning of Section 2(a)(19) of the 1940 Act.

Conclusion

For the reasons set forth above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–22849 Filed 9–12–95; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Larson·Davis Incorporated, Common Stock, $0.001 Par Value) File No. 1–10013

September 8, 1995.

Larson·Davis Incorporated (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the Boston Stock Exchange, Inc. (''BSE'').

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, the Security is currently listed on the Small Cap Market of Nasdaq under the symbol ''LDII'', and the principal trading activity in the Security occurs in the over-the-counter market of Nasdaq. The Company wishes to withdraw the Security from listing on the BSE in order to consolidate the trading in the Security in a single trading market.

Any interested person may, on or before September 29, 1995, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the BSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–22847 Filed 9–13–95; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Package Machinery Company, Common Stock, $1.00 Par Value) File No. 1–9675

September 8, 1995.

Package Machinery Company (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant

to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the Boston Stock Exchange, Inc. (''BSE'').

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, the Company believes that the continued listing and registration of the Security is not consistent with its status as a company in the process of liquidation and, further, the costs associated therewith outweigh the benefits thereof to both the Company and its shareholders. On February 7, 1995, the shareholders of the Company approved a plan of dissolution and liquidation of the Company. As a result, the Company is currently in the process of selling its remaining businesses, liquidating its assets, and paying its liabilities. In addition, the Company recently completed an odd-lot tender offer to purchase all of the shares of the Security held by shareholders who owned less than 100 shares of the Security. This resulted in the reduction of the number of shareholders of record of the Company to approximately 267 shareholders as of September 1, 1995. Based upon the foregoing, the Company believes it is in the best interest of the Company and its shareholders to withdraw the Security from listing and registration under the Act.

Any interested person may, on or before September 29, 1995, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc 95–22846 Filed 9–13–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26370]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

September 8, 1995.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 2, 1995, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Central Power and Light Company (70–7572)

Central Power and Light Company (''CPL''), 539 N. Carancahua Street, Corpus Christi, Texas 78401–2431, an electric utility subsidiary company of Central and South West Corporation, a registered holding company, has filed a post-effective amendment to its application under sections 9(a) and 10 of the Act and rule 54 thereunder.

By order dated April 13, 1989 (HCAR No. 24863), (''1989 Order''), the Commission authorized CPL to lease to nonaffiliated third parties: (1) Approximately 23,400 square feet of excess space on the first two floors of its corporate headquarters building (''Headquarters Building''); (2) approximately 17,800 square feet of excess space on the third and fourth floors, in the basement and on the roof of the Headquarters Building; and (3) space in one of its former office buildings (''Other Building'') pending eventual sale of the Other Building.

CPL now requests authority to lease any existing or future excess space in the Headquarters Building to unaffiliated third parties at what CPL considers to be market rates for such space at the time of entering such leases. CPL also requests authority to lease several of its other rentable properties or portions thereof (''other Properties'') to unaffiliated third parties until such properties are sold or are again put into use by CPL at what CPL considers to be market rates for the Other Properties at the time of entering such leases. The Other Properties shall include the following types of properties: (1) Area or regional offices, which typically consist of less than 10,000 square feet; (2) service centers which include office and warehouse facilities and which typically consist of less than 20,000 square feet; (3) district or regional offices, which typically consist of less than 20,000 square feet; (4) excess capacity in CPL training facilities; miscellaneous facilities which are being held for future use or sale and which typically consist of less than 10,000 square feet; and (5) other improved and unimproved land. All rental payments from nonaffiliated third parties for excess space in the Headquarters Building and the Other Properties are, and in the future will be, accounted for as rent from property devoted to electric operations.

Jersey Central Power & Light Company, et al. (70–7862)

Jersey Central Power & Light Company (''JCP&L''), 300 Madison Avenue, Morristown, New Jersey 07460, Metropolitan Edison Company (''Met-Ed'') and Pennsylvania Electric Company (''Penelec''), 2800 Pottsville Pike, Reading, Pennsylvania 19605 (collectively, ''GPU Companies''), electric utility subsidiaries of General Public Utilities Corporation, a registered holding company, have filed a post-effective amendment to their application under sections 9(a) and 10 of the Act and rule 54 thereunder.

By order dated August 15, 1991 (HCAR No. 25361), (''1991 Order''), the Commission, among other things, authorized JCP&L, Met-Ed and Penelec to enter into separate fuel lease agreements and to establish related financing arrangements to provide for the acquisition of nuclear fuel and certain related services for the Three Mile Island Unit 1 nuclear generating station (''TMI–1'') and the Oyster Creek nuclear generating station (''Oyster Creek''). The GPU Companies jointly own TMI–1 in the following percentages: Met-Ed—50%; JCP&L—

25%; and Penelec—25%. JCP&L owns a 100% interest in Oyster Creek. TMI–1 and Oyster Creek are operated and maintained on behalf of the GPU Companies by GPU Nuclear Corporation, a subsidiary of GPU.

Pursuant to the 1991 Order, a nuclear fuel trust (''Fuel Trust'') was established in accordance with a trust agreement under which United States Trust Company of New York acts as trustee. The Fuel Trust is the sole stockholder of two nonaffiliated Delaware corporations, TMI–1 Fuel Corporation and Oyster Creek Fuel Corporation (collectively, ''Fuel Companies'') which own certain nuclear fuel assemblies and component parts (''Nuclear Material'') for use at TMI–1 and Oyster Creek, respectively. The GPU Companies have entered into separate lease agreements (''1991 Lease Agreements'') by which TMI–1 Fuel Corporation leases Nuclear Material for TMI–1 to the GPU Companies in proportion to their respective undivided ownership interests in TMI–1, and Oyster Creek Fuel Corporation leases Nuclear Material for Oyster Creek to JCP&L. In connection with the 1991 Lease Agreements, The Prudential Life Insurance Company of America and certain of its affiliates entered into lending agreements to provide for borrowings by the Fuel Companies of up to a total of $250 million to finance the acquisition costs of Nuclear Material under such lease agreements.

The GPU Companies now propose to enter into an agreement (''Agreement'') with Union Bank of Switzerland, New York Branch (''UBS'' or ''Agent'') for UBS to provide a new credit facility (''Facility''), which would provide for borrowings of up to $210 million by the Fuel Companies from UBS and other lenders for which UBS would act as Agent (collectively, ''Lenders''). The Fuel Companies will enter into one or more Facilities providing for aggregate borrowings of up to $210 million and under which: (1) letters of credit (''LC's'') would be issued by UBS, as Agent, to provide credit enhancement for commercial paper to be issued by the Fuel Companies and (2) revolving credit loans would be made by the Lenders to the Fuel Companies. In addition, the 1991 Lease Agreements would be amended and/or restated in certain respects consistent with the establishment of the Facilities.

Under the Facility, the Fuel Companies would issue and sell their commercial paper from time-to-time to finance acquisition costs of Nuclear Material. To reduce borrowing costs, the Fuel Companies' commercial paper credit would be enhanced through the issuance by UBS of LC's in an aggregate face amount of up to $210 million outstanding at any time, subject to the following sublimits: (1) JCP&L—$127.5 million; (2) MetEd—$55 million and (3) Penelec—$27.5 million. The commercial paper would be evidenced by commercial paper notes (''CP Notes''). Under the Agreement, the Fuel Companies would enter into separate credit agreements (''New Credit Agreements'') pursuant to which the Agent would issue its LC's and each Fuel Company would agree to reimburse the Lenders for related drawings.

The Fuel Companies would also be entitled to borrow directly under the Facility in lieu of issuing CP Notes. To evidence its obligations to repay direct borrowings, each Fuel Company will issue and sell to the Lenders its promissory notes (''New Notes''). The aggregate principal amount of New Notes outstanding at any time would not exceed the lesser of: (1) $210 million less the outstanding principal amount of CP Notes and (2) the Stipulated Casualty Value of all Nuclear Material, as defined in the 1991 Lease Agreements, under lease at such time, less the outstanding principal amount of CP Notes. The Facility would have an initial term of three years, renewable on the first anniversary and on each anniversary thereafter.

The New Notes would be secured on the same basis as the existing notes issued in connection with the 1991 Lease Agreements and would bear interest at either an Alternative Base Rate or a Eurodollar Rate. The Alternative Base Rate is a fluctuating annual rate equal to the higher of: (1) The Agent's publicly announced prime rate and (2) 50 basis points above the rate on overnight federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers. Eurodollar Rate Notes would bear interest at the Eurodollar Rate plus the Applicable Margin, as defined, and would be fixed at the Fuel Company's option for interest periods of 1, 2, 3 or 6 months. The Eurodollar Rate is defined as the annual interest rate for deposits in U.S. dollars as reported in the Dow Jones Telerate system or if such rate is not reported, at the LIBOR rate, in each case for the two business day period prior to the interest period. The Applicable Margin would range from 27.5 to 65 basis points depending on the GPU Company's senior secured long-term debt ratings.

Central Power & Light Co. (70–8677)

Central Power and Light Company (''CP&L''), 539 No. Carancahua St., Corpus Christi, Texas 78401, a wholly-owned electric utility subsidiary company of Central and South West Corporation, 1616 Woodall Rodgers Freeway, P.O. Box 660164, Dallas, Texas 75266–0164, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(d) of the Act and rules 44 and 54 thereunder.

CP&L seeks authorization through December 31, 1998, to incur obligations in connection with the proposed issuance by Nueces County Navigation District No. 1 (''Nueces'') and/or Guadalupe-Blanco River Authority, Texas (''Guadalupe'') in one or more series of up to $95,000,000 aggregate principal amount of Pollution Control Revenue Bonds. Of this amount, up to $45,000,000 may be Pollution Control Revenue Refunding Bonds (''Refunding Bonds'') and up to $50,000,000 may be new money Revenue Bonds (''New Money Bonds''). The issuance by Neuces and Guadalupe (''Issuers'') of New Money Bonds and Refunding Bonds (collectively, ''New Bonds'') may be combined.

The purpose of the Refunding Bonds is to reacquire all or a portion of four previously issued Pollution Control Revenue Bonds (''Old Bonds''). The purpose of the New Money Bonds is to reimburse CP&L for expenditures that qualify for tax-exempt financing or to provide for current solid waste expenditures.

CP&L also seeks authority to manage interest rate risk or lower its interest rate costs on any variable rate New Bond through the issue of caps, floors, and collars during the life of the New Bonds.

The Old Bonds were issued to finance the acquisition and improvements of air and water pollution control facilities at two plants—the Barney M. Davis Power Station and the Coleto Creek generating plant—operated by CP&L. The Old Bonds were issued pursuant to Indentures of Trust (''Indentures'') with two banks as trustees, NationsBank of Texas, N.A. and Texas Commerce Bank—Dallas, N.A. (''Trustees''), and had the following terms:

Series	Interest rate	Maturity date	First redemption date
1974A	7⅛%	6/1/04	6/1/84
1974B	7⅛%	6/1/04	6/1/84
1977	6%	11/1/07	11/1/87
1977A	6%	11/1/07	11/1/87

CP&L and the Issuers entered into installment sales agreements (''Sale Agreements'') for the issuance of the Old Bonds. In connection with the issuance of the New Bonds, CP&L will

amend the Sale Agreements, enter into agreements with substantially the same terms, and/or enter into new installment sale agreements (collectively, ''Amended Sale Agreements'').

The New Bonds will bear a fixed or floating interest rate, may be secured with First Mortgage Bonds, and will mature in not more than forty years. The interest rate, redemptions provision and other terms applicable to the New Bonds will be determined in negotiations between CP&L and one or more investment banking firms that will purchase or underwrite (''Purchasers'') the New Bonds.

CP&L anticipates that the New Bonds will be redeemable at its option upon the occurrence of various events specified in the Amended Sale Agreements and the Indentures, which might be amended or supplemented (''Supplemental Indentures''), or a new indenture (''New Indenture''). The New Bonds will be subject to optional redemption with premiums to be determined by negotiations between CP&L and the Purchasers, and will be subject to mandatory redemption if the interest on the New Bonds becomes subject to federal income tax.

CP&L may obtain a credit enhancement for the New Bonds, which would include bond insurance, a letter of credit or a liquidity facility. CP&L anticipates it may be required to provide credit enhancement if it issues floating rate bonds. A premium or fee would be paid for the credit enhancement, which would still result in a net benefit through a reduced interest rate on the New Bonds. CP&L will not provide credit enhancement unless it is economically beneficial.

CP&L also seeks authority to issue First Mortgage Bonds as security for the New Bonds, subject to applicable indenture restrictions under a Supplemental Indenture to its Mortgage Indenture dated November 1, 1943 to the First National Bank of Chicago and A.H. Bohm (''Mortgage Indenture''). The First Mortgage Bonds will be held by the Trustee for the New Bonds for the benefit of the New Bonds holders and will not be transferable, except to a successor trustee. The First Mortgage Bonds will be issued in the exact amount and with substantially the same terms as the New Bonds. To the extent payments in respect of the New Bonds are made in accordance with their terms, corresponding payment obligations under the First Mortgage Bonds will be deemed satisfied.

The redemption, sinking fund, and dividend provisions of the First Mortgage Bonds may deviate from the Statement of Policy Regarding First Mortgage Bonds. CP&L anticipates that the New Bonds will be sold by the Issuers pursuant to a Bond Purchase Agreement (''Purchase Agreement'') between the Issuers and one or more Purchasers.

The proceeds of the New Bonds will be used to redeem the Old Bonds pursuant to the terms of the Indentures (''Redemption'') and reimburse CP&L for expenditures made that qualify for tax-exempt financing or to provide for current solid waste expenditures. The proceeds of any offering also may be used to reimburse CP&L for Old Bonds previously acquired. Additional funds required to pay for the Redemption and the costs of issuance of the New Bonds will be provided by CP&L from internally generated funds and short-term borrowings.

CP&L believes that the Redemption of the Old Bonds and the issuance of floating rate Refunding Bonds could result in substantial savings and benefit ratepayers. Whether or not net present value savings are available, CP&L proposes to refund the Series 1974A and the Series 1977 Bonds to eliminate the sinking fund requirement so that the current amount of tax-exempt bonds outstanding will be maintained. CP&L also proposes to refund the Series 1974B and the Series 1977A Bonds to achieve savings from consolidating several series of bonds into one or two series.

New England Electric System, et al. (70–8679)

New England Electric System (''NEES''), a registered holding company, and its subsidiary companies, Massachusetts Electric Company (''Mass. Electric''), New England Electric Transmission Corporation (''NEET''), Narragansett Energy Resources Company (''NERC''), New England Energy Incorporated (''NEEI''), New England Hydro-Transmission Electric Company, Inc. (''Mass. Hydro''), New England Hydro-Transmission Corporation (''NH Hydro''), New England Power Company (''NEP''), and New England Power Service Company (''NEPSCO''), all of 25 Research Drive, Westborough, Massachusetts 01582, Granite State Electric Company, 33 West Lebanon Road, Lebanon, New Hampshire 03766, and The Narragansett Electric Company (''Narragansett''), 280 Melrose Street, Providence, Rhode Island 02901, (collectively, ''Applicants'') have filed an application-declaration under sections 6(a), 7, 9(a), 10, and 12(b) of the Act and rules 43 and 45 thereunder.

The subsidiaries noted below (''Borrowing Companies'') propose, from November 1, 1995 to October 31, 1997, to borrow from the NEES intrasystem money pool (''Money Pool'') and/or banks, and/or, in the case of Mass. Electric, Narragansett, and NEP, through the issuance of commercial paper up to the following amounts:

Granite	$10,000,000
Mass. Electric	150,000,000
Narragansett	100,000,000
NEET	10,000,000
Mass. Hydro	25,000,000
NH Hydro	25,000,000
NEP	375,000,000
NEPSCO	25,000,000
Total	720,000,000

The proceeds from the borrowings will be used: (i) to pay outstanding notes to banks and/or commercial paper dealers and/or borrowings from the Money Pool; (ii) to provide new money, and/or to reimburse the treasury, for capital expenditures; and (iii) for other corporate purposes relating to ordinary business operations, including working capital and the financing of construction and property acquisitions.

Applicants request authority to lend to the Money Pool from surplus funds that may be available in their treasuries. Loans by the Money Pool to the Borrowing Companies may or may not be evidenced by notes. The interest rate for such loans will be 108% of the monthly average of the rate for high grade 30-day commercial paper sold through dealers by major corporations as published in the Wall Street Journal. Although there are no stated maturities, Money Pool loans are payable on demand and may be prepaid without penalty.

Applicants state that bank loans will be evidenced by notes maturing less than one year from date of issuance, with a negotiated interest rate. Fees will be paid to the banks in lieu of compensating balance arrangements. The effective interest cost of bank loans will not exceed the greater of the bank's base or prime lending rate or the rate published in the Wall Street Journal as the high federal funds rate, plus, in either case, one percent. Some bank borrowings may be without prepayment privileges. Payment of any short-term promissory notes prior to maturity will be made on the basis most favorable to the Borrowing Companies, taking into account fixed maturities, interest rates, and any other relevant financial considerations.

Mass. Electric, Narragansett, and NEP also propose to issue and sell commercial paper to one or more nationally recognized commercial paper dealers (''CP Dealer''). Initially, the CP Dealer will be CS First Boston

Corporation and/or Merrill Lynch Money Markets Incorporated.

The effective interest cost to the issuer of commercial paper will generally not exceed the effective interest cost of the base lending rate at the First National Bank of Boston. However, the effective interest cost of such paper is based on the supply of, and demand for, that and similar paper at the time of sale, and interest costs have from time to time exceeded bank base rates. While it is not anticipated that the effective annual cost of borrowing through commercial paper will exceed the annual base rate borrowing from the First National Bank of Boston, commercial paper may be issued with a maturity of not more than 90 days with an effective cost in excess of the then-existing lending rate.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–22844 Filed 9–13–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Dynamic Testing of Seats

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting which is being held by the Federal Aviation Administration (FAA) to present its views and hear comments from the public concerning issues relating to dynamic testing of seats in transport category airplanes.

DATES: The meeting will be held in Seattle, Washington, on October 23 and 24, 1995, beginning at 8:30 a.m.

REGISTRATION: Registration will begin at approximately 7:30 a.m. on Monday, October 23. Persons planning to attend the meeting are encouraged to pre-register by contacting the person identified later in this notice as the contact for further information.

ADDRESSES: The meeting will be held at the Red Lion Hotel Seattle Airport, 18740 Pacific Highway South, Seattle, WA 98188, telephone (206) 246–8600. A block of guest rooms has been reserved for the meeting at the Red Lion Hotel at a group rate. This block of rooms will be held until September 25. Persons planning on attending the meeting should contact the hotel directly for reservations and identify themselves as participants in the FAA public meeting on dynamic testing of seats to ensure proper credit.

FOR FURTHER INFORMATION CONTACT: Jeff Gardin, FAA, Regulations Branch, ANM–114, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (206) 227–2136; facsimile (206) 227–1320; Internet: Jeff Gardin at ANM100@mail.hq.faa.gov.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to present information to the public regarding certain aspects of the dynamic test requirements for seats, and to hear comments from the general public on the current 16g seat dynamic test regulatory and compliance issues.

The agenda for the meeting will include:

Day One:

Background on development of the regulation.
Implementation of the regulation into certification bases
Summary of recent guidance issued
Head Injury Criterion compliance
Status of revision to the advisory circular

Day Two:

Input from the public

Participation at the Meeting

Requests from persons who wish to present oral statements at the public meeting should be received by the FAA no later than October 2, 1995. Such requests should be submitted to Jeff Gardin, as listed under the heading **FOR FURTHER INFORMATION CONTACT,** and should include a written summary of oral remarks to be presented, as well as an estimate of time needed for the presentation. Requests received after the date specified above will be considered and may be scheduled, time permitting, during the meeting. The FAA will prepare an agenda of speakers who will be available at the meeting. Every effort will be made to accommodate as many speakers as possible in the time allotted.

Meeting Precedures

The following procedures are established to facilitate the meeting:

(1) Attendance is open to the public, but will be limited to the space available.

(2) There will be no admission fee or other charge to attend or participate in the meeting. The opportunity to speak will be available to all persons, subject to availability of time.

(3) The meeting is designed to provide information to, and hear comments from, the public concerning issues related to the dynamic test requirements for seats. The meeting will be conducted in an informal and nonadversarial manner; however, the FAA may ask questions to clarify a statement and to ensure a complete and accurate record.

(4) Representatives of the FAA will preside over the meeting. A panel of FAA personnel involved in this issue will be present.

(5) Statements made by members of the meeting panel are intended to facilitate discussion of the issues or to clarify issues and, unless stated as such, should not necessarily be construed as a position of the FAA.

(6) An individual, whether speaking in person or in a representative capacity on behalf of an organization, may be limited to as 10-minute statement. If possible, additional time may be allotted, if available.

(7) The FAA will try to accommodate all questions, time permitting. However, the FAA reserves the right to exclude some questions, if necessary, to present a balance of viewpoints and issues.

(8) The FAA will review and consider all material presented by participants at the meeting. Participants are requested to provide 10 copies of all materials to be presented, for distribution to the panel members; other copies may be provided to the audience at the discretion of the participant.

(9) The meeting will be recorded by a court reporter. A transcript of the meeting and any material accepted by the panel during the meeting will be made a part of the official record. Any person interested in purchasing a copy of the transcript should contact the court reporter directly at the meeting.

Issued in Renton, WA on September 7, 1995.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 95–22862 Filed 9–13–95; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

Safety Performance Standards Meeting

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting at which NHTSA will discuss its decisions concerning motor vehicle regulatory reform.

DATES: Following the Agency's regular, quarterly public meeting relating to the agency's safety performance standards, which will be held on September 22,

1995 beginning at 9:30 a.m. and ending at approximately 12:30 p.m., NHTSA will discuss its motor vehicle regulatory reform initiatives and its response to public comments on this subject. This latter discussion will be held immediately after the regular quarterly meeting, beginning after lunch at 1:30 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn Capitol, 550 C Street, SW, (Columbia North Room), Washington, DC 20024.

SUPPLEMENTARY INFORMATION: The motor vehicle regulatory reform meeting is a follow-up to NHTSA's March 29, 1995 meeting on regulatory reform held in conjunction with the agency's previous quarterly technical meeting, and to the agency's April 4, 1995 meeting in Washington, D.C., at which NHTSA sought information from the public on regulatory reform actions the agency should take related to its motor vehicle regulations. These were in conjunction with President Clinton's call for a new approach to the way Government regulates the private sector, and his request that Executive Branch agencies report to him by June 1, 1995 on ways to improve the regulatory process. NHTSA will discuss how the agency has handled the public comments and the next actions to implement its motor vehicle regulatory reform decisions.

A transcript will be available for public inspection in the NHTSA Technical Reference Section in Washington, DC, within four weeks after the meeting. Copies of the transcript will then be available at ten cents a page upon request to NHTSA Technical Reference Section, Room 5108, 400 Seventh Street, SW., Washington, DC 20590. The Technical Reference Section is open to the public from 9:30 a.m. to 4 p.m.

Issued on: September 8, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–22863 Filed 9–11–95; 12:22 pm]

BILLING CODE 4910–59–P

Research and Special Programs Administration

Appeals in Hazardous Materials Transportation Enforcement Cases

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of the availability of decisions on appeal in enforcement cases under the Federal hazardous materials transportation law.

SUMMARY: This notice alerts the public that decisions on appeal by the Administrator of the Research and Special Programs Administration (RSPA) are now available through the Hazardous Materials Information Exchange (HMIX) computer system. These appellate decisions involve hazardous materials transportation enforcement cases, issued between 1992 and April 1995, initiated under the Federal hazardous materials transportation law and the Hazardous Materials Regulations (HMR). In these decisions, the Administrator establishes RSPA's policy regarding the enforcement of the HMR and provides a rationale for these policies. This information will assist the efforts of the regulated community to comply with HMR and is being provided to the regulated community as a public service.

FOR FURTHER INFORMATION CONTACT: The public may access the HMIX and the appeal decisions by computer: Commercial Access (708) 972–3275 or Internet Access: hmix.dis.anl.gov (146.137.100.54). Members of the public who do not have access to a computer can request a copy of these decisions by contacting: Suezett Edwards, Office of Hazardous Materials Initiatives and Training (DHM–50), Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 (Tel. (202) 366–4900) or Robert A. Monniere, Office of the Chief Counsel (DCC–10), Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 (Tel. (202) 366–4400).

SUPPLEMENTARY INFORMATION: Federal hazardous materials transportation law (Federal hazmat law) (49 USC 5101 *et seq.*, formerly 49 app. USC 1801 *et seq.*) provides that, ''The Secretary shall prescribe regulations for the safe transportation of hazardous material in intrastate, interstate, and foreign commerce. The regulations * * * shall govern safety aspects of the transportation of hazardous material the Secretary considers appropriate.'' (49 USC 5103(b)(1)). Under this authority, RSPA issues the Hazardous Materials Regulations (HMR), 49 CFR parts 171–180, a comprehensive set of regulations concerning the transportation of hazardous materials.

The HMR govern the shipping and transporting of hazardous materials by aircraft, rail car, vessel and motor vehicle. The HMR also prescribe requirements governing the manufacture, fabrication, marking, maintenance, reconditioning, repairing, or testing of a packaging or container which is represented, marked, certified, or sold for use in transportation of hazardous materials in commerce.

In addition to the HMR, RSPA has issued other regulations (49 CFR parts 106 and 107) implementing Federal hazmat law. All of these regulations are enforced by RSPA, the U.S. Coast Guard, the Federal Aviation Administration, the Federal Highway Administration, and the Federal Railroad Administration. Within their respective modes of transportation, these agencies enforce the requirements of the HMR.

Within RSPA, the Office of Hazardous Materials Enforcement (OHME) and the Office of the Chief Counsel enforce the HMR and parts 106 and 107. RSPA's enforcement regulations are in subpart D of part 107. When OHME finds that a person apparently has violated Federal hazmat law or the regulations, the Office of the Chief Counsel may institute an enforcement action. That office may issue a notice of probable violation (notice), in which a respondent is charged with a probable violation and a civil penalty is proposed. In addition, the notice may contain a proposed compliance order.

Generally, under 49 CFR 107.313(a), a respondent must respond to a notice within 30 days of its receipt. The respondent may respond by admitting the violation(s) and accepting the proposed penalty amount (or the proposed compliance order), or may contest the notice. A notice may be challenged through a written response, a telephonic or in-person conference, or a hearing before an administrative law judge.

If the respondent makes no response within the prescribed period, the Chief Counsel may enter an order finding that the alleged violation(s) were committed and imposing the proposed penalty or compliance order. The same result follows if the respondent admits the violation(s). When the respondent requests a conference, the Office of the Chief Counsel conducts the conference; then the Chief Counsel reviews the proceeding and considers all relevant evidence, including all submissions of the respondent. The Chief Counsel then issues an order, which may include a finding of violation, imposition of a civil penalty and a compliance order.

In assessing civil penalties, the Chief Counsel considers the nature and circumstances of the violation, its extent and gravity, the respondent's culpability, the respondent's lack of prior violations, the respondent's ability to pay, the effect of the civil penalty on

the respondent's ability to continue in business and any other relevant factors (especially respondent's corrective actions) (*see* RSPA penalty guidelines, 60 12139 (March 6, 1995)).

Where a hearing is requested, the Office of the Chief Counsel submits the matter to the Department's Office of Hearings. An administrative law judge is assigned to the case and conducts pre-hearing and hearing procedures. The administrative law judge issues an appropriate order.

Following issuance of an order by either the Chief Counsel or an administrative law judge, a respondent must either comply with the order or file an appeal with the Administrator of RSPA. The appeal must be filed within 20 days of respondent's receipt of the order. The appeal must state, with particularity, the findings in the order that the respondent is challenging, and it must include all relevant information and arguments. The filing of an appeal stays enforcement of the order.

In a decision on appeal, the Administrator determines whether to affirm or dismiss violations and whether to affirm or modify civil penalty assessments and compliance orders. A respondent has 30 days from the date of issuance of the decision on appeal in which to comply with its terms. Failure to timely comply results in assessment of interest, penalty and administrative charges where a civil penalty has been affirmed in the decision on appeal. The Administrator's decision on appeal is the final step in the administrative process.

The decisions on appeal are presented in case number sequence with each decision containing the individual case number, respondent's name, the background of the case, a discussion of the facts and circumstances, and the Administrator's findings.

Issued in Washington, DC, on September 11, 1995.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 95–22903 Filed 9–13–95; 8:45 am]

BILLING CODE 4910–60–P

[Docket No. P–93–2W; Notice 3]

Grant of Waiver: Repair of Gas Transmission Lines

The Research and Special Programs Administration (RSPA) waived certain maintenance regulations (49 CFR 192.713(a) and 192.485) to permit 28 pipeline operators and their subsidiaries to repair steel gas transmission lines with Clock Spring® wrap (Notice 2; 60 FR 10630; February 27, 1995). The waiver, which was based on a petition submitted by the Interstate Natural Gas Association of America (INGAA) and a notice inviting public comment (Notice 1; 59 FR 49739; September 29, 1994), applies to lines operating at 40 percent or more of specified minimum yield strength.

As stated in Notice 2, the waiver is subject to the following conditions:

(1) Clock Spring® wrap must be installed using procedures recommended by the manufacturer;

(2) Clock Spring® wrap must be installed consistent with the program, GRI WRAP;

(3) Clock Spring® wrap must be installed consistent with a Gas Research Institute plan, including, at 2-year intervals, excavating and evaluating a statistical sample of sites, recording the results, and sending the results to RSPA;

(4) To allow inspection by RSPA and state agencies serving as interstate enforcement agents, scheduled non-emergency installations of Clock Spring® wrap must be reported (by phone, fax, or mail) a reasonable time before installation to the RSPA pipeline regional office and state agent with authority over the repair; and

(5) Persons installing Clock Spring® wrap must have been trained and certified in installation procedures either by the Clock Spring Company or by persons the Clock Spring Company has trained and certified.

By letter of June 30, 1995, INGAA petitioned RSPA to add additional operators to the list of operators who are authorized to use the wrap under the waiver. These additional operators include interstate natural gas pipeline companies as well as intrastate pipeline companies. Because the safety of Clock Spring® wrap installations on high-stress gas transmission lines is governed by the terms and conditions of the waiver, expanding the list of operators to include additional interstate companies would not be inconsistent with pipeline safety. However, under the federal statutory provision that governs waivers of the pipeline safety regulations (49 U.S.C. 60118), matters involving intrastate pipeline facilities under the authority of participating state agencies are handled initially by those agencies. Therefore, we are adding to the list of operators authorized to use the wrap only those interstate natural gas pipeline companies named in INGAA's petition. These companies are Consumers Power and Michigan Gas Storage Company, Iroquois Gas Transmission System, National Fuel Gas Supply Corporation with National Fuel Gas Distribution Corporation, Sabine Pipe Line Company, Valero Energy Corporation, and Viking Gas Transmission Company.

The remaining companies named in INGAA's petition should either obtain a waiver of 49 CFR 192.713(a) and 192.485 from the applicable state agency participating in the federal/state pipeline safety regulatory program or notify RSPA that the gas transmission lines involved are intrastate pipeline facilities that are not subject to the authority of such an agency. As provided by the above statutory provision, state waiver actions are subject to review by RSPA. We will not object to any state waiver that is consistent with the terms and conditions of the waiver published in Notice 2 of this proceeding.

(Authority: 49 U.S.C. 60118(c))

Issued in Washington, DC on September 8, 1995.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 95–22815 Filed 9–13–95; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Senior Executive Service Combined Performance Review Board (PRB)

AGENCY: Treasury Department.

ACTION: Notice of Members of Combined Performance Review Board (PRB).

SUMMARY: Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of members of the Combined PRB for the Bureau of Engraving and Printing, the Financial Management Service, the U.S. Mint and the Bureau of the Public Debt. The Board reviews the performance appraisals of career senior executives below the level of bureau head and principal deputy in the four bureaus, except for executives below the Assistant Commissioner level in the Financial Management Service. The Board makes recommendations regarding proposed performance appraisals, ratings, bonuses and other appropriate personnel actions.

COMPOSITION OF COMBINED PRB: The Board shall consist of at least three voting members. In case of an appraisal of a career appointee, more than half of the members shall consist of career appointees. The names and titles of the Combined PRB members are as follows:

PRIMARY MEMBERS: Timothy G. Vigotsky, Assistant Director (Management), E&P; Bland T. Brockenborough, Assistant Commissioner, Regional Operations, FMS; Andrew Cosgarea, Jr., Associate

Director, Chief Operating Officer, Mint; Kenneth R. Papaj, Director, Government Securities Regulations Staff, PD.

ALTERNATE MEMBERS: L. Paul Blackmer, Jr., Associate Director (Chief Financial Officer), E&P; Diane E. Clark, Assistant Commissioner, Financial Information, FMS; Jay M. Weinstein, Associate Director for Policy and Management & CFO, Mint; Thomas W. Harrison, Assistant Commissioner (Administration), PD.

DATES: Membership is effective on September 14, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew Cosgarea, Jr., U.S. Mint, Associate Director, Chief Operating Officer, Suite 825, 633 3rd St., N.W., Washington, D.C. 20220, (202) 874–6100.

This notice does not meet the Department's criteria for significant regulations.

Dated: September 6, 1995.

Andrew Cosgarea, Jr.,

Associate Director, Chief Operating Officer.

[FR Doc. 95–22800 Filed 9–13–95; 8:45 am]

BILLING CODE 4810–25–M

Customs Service

[T.D. 95–74]

Retraction of Revocation Notice

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: The following Customs broker license number was erroneously included in a list of revoked Customs brokers licenses in the Customs Bulletin.

Matthew Adair—11820

License 11820, issued in the Detroit District, remains a valid license.

Dated: September 8, 1995.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 95–22905 Filed 9–13–95; 8:45 am]

BILLING CODE 4820–02–P

[T.D. 95–75]

Retraction of Revocation Notice

AGENCY: Customs Service, Department of the Treasury.

ACTION: General Notice.

SUMMARY: The following Customs broker license number was erroneously included in a list of revoked Customs brokers licenses in the Customs Bulletin.

Karen L. Blanchard—10872

License 10872, issued in the Norfolk District, remains a valid license.

Dated: September 8, 1995.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 95–22906 Filed 9–13–95; 8:45 am]

BILLING CODE 4820–02–P

Office of Thrift Supervision

[No. 95–174]

Notification of Change in Location and Hours of Operation for Public Reference Room and Securities Filings Desk

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice.

SUMMARY: The Office of Thrift Supervision (OTS) is giving notice of the change in location and hours of operation for its public reference room and the location at which official securities filings are to be made. These changes are being made to enhance access to the public reference room and the securities filing desk.

EFFECTIVE DATE: September 14, 1995.

FOR FURTHER INFORMATION CONTACT: Catherine C. M. Teti, Director, Records Management and Information Policy, (202) 906–7571, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: This notice serves to inform the public of the change in location and hours of operation for OTS' Public Reference Room and of the change in location for official securities filings made pursuant to 15 U.S.C. 78*l*(i), 12 CFR 563d.1 and 12 CFR Part 563g.

Through a recent reorganization, OTS' Information Services Division, housing its Public Reference Room, has become part of the Dissemination Branch of the Records Management and Information Policy Division. In addition, the Securities Filing Desk previously operated by the Business Transactions Division has been integrated into the Dissemination Branch and now operates from the Public Reference Room.

OTS' Public Reference Room is now located on the lower level of OTS' headquarters office at 1700 G Street, NW., Washington, D.C. 20552. Visitors must check in with the guard on duty and must use the designated elevator for accessing the Public Reference Room. This procedure has eliminated the need for the scheduled escort service. The hours of operation for the Public Reference Room have been expanded to 9:00 a.m. until 4:00 p.m. on business days.

Securities filings, comment letters and other communications with the Dissemination Branch may be hand delivered to OTS' Public Reference Room from 9:00 a.m. until 4:00 p.m. on business days. In addition, delivery will be accepted by the guard's desk at 1700 G Street, NW. from 4:00 p.m. until 5:00 p.m. No other changes have been made in the procedure for making official securities filings.

Comment letters and other correspondence addressed to the Dissemination Branch may also be sent by facsimile transmission to FAX number (202) 906–7755 or, for documents exceeding 25 pages in length, to FAX number (202) 906–6956, from 9:00 a.m. until 5:00 p.m. on business days. Neither facsimile machine is operable outside of these established hours. Securities filings must still be made on paper copies and delivered by mail or messenger.

Amendments to OTS' regulations at 12 CFR Part 505 to reflect the new procedures, addresses, and hours of operation outlined in this notice will be forthcoming in the next OTS technical amendments rulemaking.

Dated: September 8, 1995.

By the Office of Thrift Supervision.

John F. Downey,

Executive Director, Supervision.

[FR Doc. 95–22841 Filed 9–13–95; 8:45 am]

BILLING CODE 6720–01–P

UNITED STATES INFORMATION AGENCY

Exchanges and Training Program With the Newly Independent States

ACTION: Notice—Request for proposals.

SUMMARY: The Office of Citizen Exchanges, Division of Russia/Eurasia of the United States Information Agency's Bureau of Education and Cultural Affairs announces a competitive grants program. Public or private non-profit organizations meeting the provisions described in 26 CFR 1.501(c)(3) may apply to develop training programs in (1) local government and public administration, (2) business administration and business development, (3) rule of law, and (4) independent media development for the following countries: Armenia, Azerbaijan, Belarus, Georgia, Kazakstan, Kyrgyzstan, Moldova, Russia, Tajikstan, Turkmenistan, Ukraine, and Uzbekistan.

Overall grant making authority for this program is contained in the Mutual

Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program cited above is provided through the Fulbright-Hays Act and the Freedom Support Act.

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

ANNOUNCEMENT TITLE AND NUMBER: All communications with USIA concerning this announcement should refer to the above title and reference number E/PN–96–16.

DEADLINE FOR PROPOSALS: All copies must be received at the U.S. Information Agency by 5 p.m., Washington, DC time on Wednesday, November 15, 1995. Faxed documents will not be accepted, nor will documents postmarked November 15, 1995 but received at a later date. It is the responsibility of each applicant to ensure that proposals are received by the above deadline.

FOR FURTHER INFORMATION CONTACT: Office of Citizen Exchanges, Russia/Eurasia Division, E/PN, Room 216, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547, tel.: 202–619–5326, fax: 202–619–4350, to request a Solicitation Package, which includes more detailed award criteria; all application forms; and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget. Please specify USIA Program Specialist Jim Del Giudice on all inquiries and correspondence. Mr. Del Giudice may also be reached at the following e-mail address: jdelgiud@usia.gov. Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to the Office of Citizen Exchanges, Russia/Burasia Division or submitting their proposals. Once the RFP deadline has passed, the Office of Citizen Exchanges, Russia/Eurasia Division may not discuss this competition in any way with applicants until after the Bureau proposal review process has been completed.

SUBMISSIONS: Applicants must follow all instructions given in the Solicitation Package and send an original and ten copies of completed applications to: U.S. Information Agency, Ref.: E/PN–96–16, Office of Grants Management, E/XE, Room 336, 301 4th Street, SW., Washington, DC 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5'' diskette, formatted for DOS. This material must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. USIA will transmit these files electronically to USIS post overseas for their review, with the goal of reducing the time it takes to get posts' comments for the Agency's grants review process.

Diversity Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporation diversity into the total proposal.

SUPPLEMENTARY INFORMATION:

Overview

USIA is interested in proposals that encourage the growth of democratic institutions in the NIS. The main areas are local government and public administration; rule of law; business management; and media. Proposals should demonstrate support for host-country institutions and should discuss what impact activities are expected to have over the long run. Proposals which build upon previous efforts and/or show significant cost-sharing will receive preference.

The projects may include: internships; study tours; short-term training; consultations; and extended, intensive workshops taking place in the United States or in the countries listed in this announcement:

We encourage applicants to design creative programs aimed at non-English speakers both for in-country as well as for U.S.-based training projects. USIA is interested in proposals whose designs take into account the need for ongoing sharing of information and training. Examples include: ''train the trainers'' models; the creation of indigenous training centers; and/or plans to create professional networks or professional associations to share information.

Note: While this competition may fund programs in which American universities work with NIS counterparts, it is not intended to be a university linkage program. Such programs are funded by USIA's Office of Academic Programs (E/A) and proposals whose purpose is to exchange faculty or otherwise support direct academic links should be submitted under the E/A RFP for the College and University Affiliations Programs (CUAP).

Local Government and Public Administration

USIA is interested in proposals for training programs that foster effective administration of local and regional governments.

Programs in Public Administration for Kazakstan will not be accepted.

Proposals are encouraged for the following themes/topics which have been requested by USIA's posts in Ukraine and Russia:

- RUSSIA: Projects that build the capacity of local institutions and that use Russian language materials are strongly encouraged. Proposals that show support from local administrations in Russia—city or oblast—will receive preference, as will proposals that demonstrate some basis for continuity—for example, those that build on Sister City relationships or other professional associations. USIA is particularly interested in exchange programs designed for regional legislators, in particular the oblast legislatures of Irkutsk and Buryatia. Programs that emphasize the practical ramifications of a federated system of government will receive particular consideration. Programs should involve exchanges and continuing consultations between counterparts, for example, oblast duma members and U.S. state legislators. Proposals should be very specific, emphasizing concrete, tangible results that leave something behind in Russia once projects are completed.
- UKRAINE: Priority will be given to programs on themes such as: setting up a civil service and the concept of merit-based recruitment; the relationship between government and business; how to create a business-friendly environment through local laws and practices; combating corruption in law enforcement officials; governmental

budgeting processes; taxation; privatization of government services; models of local government, including city manager, city council, county government; regional planning at multi-city, multi-county level; and administration of civic organizations such as library school boards, community centers. Ukrainian partner institutions might include the Institute of Public Administration in Kiev, the L'viv Management Institute, the International Management Institute in Kiev, or similar institutions.

Rule of Law

For all NIS countries, USIA is interested in proposals for parliamentary exchanges that offer a substantive professional visit to the United States for groups of elected legislators and their staffs, at both national and regional levels. Programs can be designed around a specific theme (e.g., budget and finance, legislative and parliamentary procedure, oversight of law enforcement) or can serve as a vehicle to develop relationships between parliamentarians and Members of Congress and state legislators. Direct contact with U.S. Members of Congress is a major goal of the program. Proposals for groups composed of deputies or a combination of deputies and professional staff are acceptable. A compelling program rationale should be given for projects mixing local and national officials in one group. Visits to state legislatures in the United States are encouraged. Particular care must be taken to coordinate participant lists with the American Embassy in the given NIS country. In general, the American Embassies will issue the formal invitations to parliamentarians to participate in a given program.

For Russia, USIA is interested in long-term internship-based exchange programs between Russian parliamentary staff members and their American counterparts. Such programs should expose staff members to the workings of a congressional office. Internships should be substantive and involve work both in Washington and in congressional districts and last approximately eight weeks, USIS Moscow would select English speaking participants for this effort.

For Kazakstan, USIA is particularly interested in proposals involving the Parliament-to-be (elections should be held by the end of the 1995 calendar year). Programs beginning after March 1996 would be ideal for establishing contacts with the new parliament. Proposals should focus on the basics of and legislative procedures in drafting, debating, and passing legislation.

For Ukraine, USIA is interested in programs that offer training in the administration of local courts.

Business Administration and Development

USIA's definition of business development and administration is broad. It includes: small business development, resource development (housing, environment, energy), economic privatization and restructuring and agri-business development, including food distribution systems or the role of family farms. USIA is interested in projects that strengthen university business departments and provide management training for people already in the work place. In addition, the following USIS posts have expressed interest in the following specific themes:

- UKRAINE: Proposals are encouraged on the following themes: Business ethics; entrepreneurship; how to start a small business; how to promote business; and business curriculum development.
- KAZAKSTAN: Proposals should focus on management training for established professionals; particularly in those areas that are of importance to the future development of Kazakstan. These fields include energy, industry, metallurgy, agriculture, mineral development, and small business development.

Independent Media Development

USIA is interested in media training proposals that focus on journalistic training, management of media organizations and foster independent media. Journalistic training in basic skills and concepts could include: effective writing, investigative reporting, objectivity, the clear labeling of editorials and opinion pieces, intellectual property issues and ethics.

Media management training (both print and electronic) should focus on management of media as a business: management techniques, desk top publishing, advertising, marketing, distribution, personnel, public relations, and the financial benefits and pitfalls of journalistic advocacy. USIS posts in the following countries have indicated their priority themes:

- RUSSIA: USIA is particularly interested in proposals to work with nascent media associations and wire services. Collaborative efforts with organizations such as (but not limited to) the newly-founded Association for Investigative Journalists and more established organizations like the Russian Association of Editors and Publishers, the Glasnost Defense Fund, and the Globe Press Syndicate (GLOBUS) are encouraged. Proposals should build institutional capacity, increase the number of viable voices promoting the free flow of information, and enhance institutional ability to provide training and support.
- KAZAKSTAN: USIA is particularly interested in proposals that focus on the business of media and maximize the amount of practical, hands-on experience provided to program participants. There are many independent media outlets in Kazakstan that are trying to make the transition to a market-driven news business, and the Agency is interested in proposals that promote the idea of journalism as a business. Training programs in news reporting, television production and the ethics of journalism are also encouraged. Priority will be given to proposals that contain both in-country and U.S.-based programming. Programs for non-English speakers will be given priority.
- UKRAINE: The following topics have priority: Ethics in journalism; straight news reporting; marketing and advertising in print and broadcast media.

Guidelines

Programs must comply with J–1 visa regulations. Please refer to program specific guidelines in the Solicitation Package for further details.

Proposed Budget

Organizations must submit a comprehensive line item budget based on the specific guidance in the Program and Budget Guidelines sections of the Solicitation Package. Proposals for less than $150,000 will receive preference.

Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

Applicants are invited to submit an all-inclusive budget as well as separate sub-budgets for each program component, phase, location, or activity in order to facilitate USIA decisions on funding.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the Agency contracts office, as well

as the USIA Office of East European and NIS Affairs and the appropriate USIA post(s) overseas. Proposals may also be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with the USIA grants officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered:

1. *Quality of the Program Idea:* Proposals should exhibit originality, substance, precision, and relevance to Agency mission.

2. *Program Planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. *Ability to Achieve Program Objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. *Multiplier Effect/Impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

5. *Cross Cultural/Area Expertise:* Proposals should reflect the institution's expertise in the subject area and should address specific areas of concern facing countries involved in the project. Additionally, projects should show evidence of sensitivity to historical, linguistic and other cross cultural factors and should demonstrate how this sensitivity will be used in practical aspects of the program, such as pre-departure orientations or briefings of American hosts.

6. *Support of Diversity:* Proposals should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity throughout the program. This can be accomplished through documentation (such as a written statement or account) summarizing past and/or on-going activities and efforts that further the principle of diversity within both the organization and the program activities.

7. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

8. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts. The Agency will consider the past performance of prior recipients and the demonstrated potential of new applicants.

9. *Follow-On Activities:* Proposals should provide a plan for continued follow-on activity (without USIA support) which insures that USIA supported programs are not isolated events.

10. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. USIA recommends that the proposals include a draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives. Award-receiving organizations/institutions will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

11. *Cost-Effectiveness:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

12. *Cost-Sharing:* Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

13. *Value of U.S.-Partner Country Relations:* Proposed projects should receive positive assessments by USIA's geographic area desk and overseas officers of program need, potential impact, and significance in the partner country(ies).

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funding. Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about March 1, 1996. Awards made will be subject to periodic reporting and evaluation requirements.

Dated: September 8, 1995.

John P. Loiello,

Associate Director, Educational and Cultural Affairs.

[FR Doc. 95–22908 Filed 9–13–95; 8:45 am]

BILLING CODE 8230–01–M

NIS Secondary School Initiative Inbound Academic Year Placement

AGENCY: United States Information Agency.

ACTION: Amendment—Request for proposals.

SUMMARY: This is an amendment to the Request for Proposals (RFP) published September 7, 1995, beginning on page 46683 and ending on page 46685, concerning placement of students from the Newly Independent States (NIS) of the former Soviet Union who will be in the United States under the 1996/97 Academic Year Program of the NIS Secondary School Initiative (Announcement Number E/P–96–12). This amendment changes the day listed with the deadline date to Thursday, October 19. The RFP incorrectly says Friday, October 19.

FOR FURTHER INFORMATION CONTACT: Diana Aronson, NIS Secondary School Division (E/PY), Room 320, (202) 619–6299.

Dated: September 8, 1995.

John P. Loiello,

Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 95–22907 Filed 9–13–95; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 60, No. 178
Thursday, September 14, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Thursday, September 21, 1995 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes
Advisory Opinion 1995–31: Teresa C. Lahaderne on behalf of San Diego Host Committee
Advisory Opinion 1995–32: Leslie Fox on behalf of Chicago's Committee for '96
Advisory Opinion 1995–33: Melanie Fahey on behalf of the Coast Employee Action Fund
Advisory Opinion 1995–35: N.B. Forrest Shoaf on behalf of Alexander for President, Inc
Regulations:
MCFL Regulations: Revised Rules on Facilitation, Candidate Appearances, Endorsement, Voter Guides and Meeting Rooms (continued from meeting of September 14, 1995)
Administrative Matters

PERSON TO CONTACT FOR INFORMATION:
Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,
Administrative Assistant.

[FR Doc. 95–23005 Filed 9–12–95; 3:39 pm]
BILLING CODE 6715–01–M

Federal Register

Thursday
September 14, 1995

Part II

Department of Education

34 CFR Part 700

Standards for the Conduct and Evaluation of Activities Carried Out by the Office Educational Research and Improvement (OERI)—Evaluation of Applications for Grants and Cooperative Agreements and Proposals for Contracts; Rule

DEPARTMENT OF EDUCATION

34 CFR Part 700

RIN 1850–AA51

Standards for the Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement (OERI)—Evaluation of Applications for Grants and Cooperative Agreements and Proposals for Contracts

AGENCY: Department of Education.

ACTION: Final Regulations.

SUMMARY: The Assistant Secretary for Educational Research and Improvement establishes final regulations that set standards for the evaluation of applications for grants and cooperative agreements and proposals for contracts. The development of these standards is required by the Office of Educational Research and Improvement's authorizing legislation, the ''Educational Research, Development, Dissemination, and Improvement Act of 1994.'' The standards ensure that these application and proposal evaluation activities meet the highest standards of professional excellence.

EFFECTIVE DATE: These regulations take effect October 16, 1995.

FOR FURTHER INFORMATION CONTACT: Edward J. Fuentes, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 600, Washington, DC 20208–5530. Telephone (202) 219–1895. Internet electronic mail address: stan-questions@inet.ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On March 31, 1994, President Clinton signed Pub. L. 103–227, which includes Title IX—the ''Educational Research, Development, Dissemination, and Improvement Act of 1994'' (the ''Act''). The Act restructured the Office of Educational Research and Improvement (OERI) and endowed it with a broad mandate to conduct an array of research, development, dissemination, and improvement activities aimed at strengthening the education of all students. The Act also required the establishment of a National Educational Research Policy and Priorities Board (the ''Board'') to work collaboratively with the Assistant Secretary to identify priorities to guide the work of OERI.

The legislation directed the Assistant Secretary to develop, in consultation with the Board, such standards as may be necessary to govern the conduct and evaluation of all research, development, and dissemination activities carried out by the Office to ensure that such activities meet the highest standards of professional excellence. The legislation required that the standards be developed in three phases. These regulations implement the first phase of the standards. The Assistant Secretary will publish at a later date additional proposed regulations to implement the remaining standards in accordance with the timelines established in the Act. The legislation requires the Board to review and approve the final standards.

On June 7, 1995, the Assistant Secretary for Educational Research and Improvement published a notice of proposed rulemaking (NPRM) in the **Federal Register** (60 FR 30160).

Analysis of Comments and Changes

In response to the Assistant Secretary's invitation in the NPRM, five parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

Issues are grouped according to subject with appropriate sections of the regulations referenced in parentheses. Substantive issues are discussed under the section of the regulations to which they pertain. In addition to the public comment, the comments of the Board's Committee on Standards are also addressed. That Committee met in public session on August 4, 1995, to provide final input for the Board and to act on the Board's behalf in approving the standards. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Qualifications of Peer Reviewers (§ 700.11)

Comments: Two commenters believed that § 700.11 should require the majority of reviewers for a given application to meet the qualifications in § 700.11(a)(1)(i). These commenters were concerned that requiring individual reviewers to possess only one or more of the qualifications listed under § 700.11(a)(1) might result in few or no reviewers for a given application possessing demonstrated expertise in the subject of the competition (§ 700.11(a)(1)(i)). One of these commenters also felt that each group of reviewers for a given application should include at least one reviewer with ''in-depth knowledge of policy and practice in the field of education'' (§ 700.11(a)(1)(ii)), and at least one reviewer with ''in-depth knowledge of theoretical perspectives or methodological approaches relevant to the subject of the competition'' (§ 700.11(a)(1)(iii)). Another commenter felt that all reviewers for research projects should possess technical expertise regarding the theoretical and methodological aspects of the grant applications.

Discussion: The Secretary believes it is important for all reviewers to possess each of the qualifications in § 700.11(a)(1). The Board agreed that it is important for all reviewers to possess each of the qualifications in § 700.11(a)(1) but recommended that § 700.11(a)(1)(ii) be modified to allow a reviewer to be deemed qualified on the basis of in-depth knowledge of policy ''or'' practice in the field of education rather than both.

Changes: The Secretary has revised § 700.11(a)(1) to require each reviewer to possess each of the qualifications of (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) and replaced the word ''and'' in (a)(1)(ii) with the word ''or''.

Comments: One commenter expressed concern that the word ''relevant'' in § 700.11(a)(1)(i) was inadequate for specifying that reviewers have direct expertise in the topic area of grant applications they review.

Discussion: The Secretary agrees with this commenter.

Changes: The Secretary replaced the words ''relevant to the subject area'' with the words ''in the subject area'' in § 700.11(a)(1)(i) and also in § 700.11(a)(1)(iii).

Convening Reviewers to Discuss Unsolicited Applications (§ 700.21)

Comments: One commenter suggested substituting the word ''may'' for the word ''will'' in § 700.21(c) so as not to require the convening of reviewers in all instances. The commenter believed that it may not be necessary to convene reviewers to discuss the strengths and weaknesses of unsolicited applications.

Discussion: The Secretary believes that discussions of each application's strengths and weaknesses allows reviewers to share perspectives and provide a higher quality of review. Therefore, the Secretary believes that such discussions should, in general, be required. However, the Secretary agrees that in the case of unsolicited applications, it may not be necessary to convene reviewers.

Changes: The Secretary has added a new § 700.21(c)(2), which allows the Secretary to use discretion in determining whether to convene reviewers of unsolicited applications.

Comments: One commenter felt that it was important that applicants receive the written comments regarding the strengths and weaknesses of their applications at the same time as the applicants are notified of acceptance or rejection. Another commenter recommended that the OERI standards address the issue of OERI's communicating the results of the competition to the applicants and the larger community.

Discussion: The Secretary recently modified Department procedures to provide both successful and unsuccessful applicants earlier notification of funding decisions. In most cases, reviewer comments accompany these notifications. However, particularly for competitions that generate large numbers of applications, reviewer comments are sent at a later date so that this early notification of funding decisions need not be delayed. The Secretary routinely issues press releases to inform the public of the results of each competition.

Changes: None.

Evaluating Grant and Cooperative Agreement Applications and Contract Proposals (§ 700.21 and § 700.22)

Comments: One commenter stated that it was not clear that the Secretary will be constrained or informed by the results of the evaluations carried out by the peer reviewers. The commenter recommended changes to clarify that: (1) Each reviewer will provide a recommendation to fund or not to fund each application, accompanied by a numerical rating of the application; and (2) the Secretary will rely on numerical ratings given by the peer reviewers in rank ordering the applications.

Discussion: The Secretary agrees that § 700.21(e) should be revised to clarify that the Secretary prepares a rank order based solely on the peer reviewers' ratings. However, the Secretary believes that, in selecting applications for award, he must consider factors in addition to the applicants' rankings and the funding recommendations of the peer reviewers. These other factors, specified in § 700.40, include performance of the applicant under a prior award, the amount of funds available for the competition, and any other information relevant to a priority or other statutory or regulatory requirement applicable to the selection of applications for new awards.

Changes: The Secretary has revised § 700.21(e) to clarify that the rank order is based solely on the peer reviewers' ratings for each application.

Comments: One commenter pointed out that § 700.22(d), regarding the evaluation of contract proposals, enables reviewers to assign proposals to the category ''capable of being made acceptable.'' The commenter recommended that a similar category be added to § 700.21(d), relating to the evaluation of grants and cooperative agreements. The commenter believes that such a change could allow applicants an opportunity to fix minor problems in otherwise outstanding grant applications and still be eligible for funding.

Discussion: The Federal Acquisition Regulations, which govern the Federal government's contract procurements expressly recommend the establishment of a category ''capable of being made acceptable.'' In that grant competitions are held to determine which applicants are to receive the benefit of Federal financial assistance for the activities applicants propose, rather than to determine which applicant or applicants will be contracted to provide services according to government specifications, fairness would dictate that if one grant applicant is allowed to revise its application, all other grant competitors should be provided the same opportunity. In addition, grant competitions typically generate many more applications than do contract competitions. There are often many more highly rated applicants than there are funds available for awards, and so there is no need to allow competitors a second chance to make their applications fundable. As a practical matter, applications that are truly outstanding, but have minor problems, are likely to be rated highly, with the minor problems addressed during negotiation of the grant award. The Board discussed the issue raised by this commenter. The Board was concerned that reviewers of proposals for contracts had three categories in which they could place contract proposals while reviewers of grant and cooperative agreement applications only had two categories. The Board recommended that a third category be added under § 700.21(d) that would allow reviewers to distinguish between projects that they would recommend for funding and those that they would highly recommend.

Changes: The Secretary has added a new category of ''highly recommended for funding'' under § 700.21(d).

Comment: After consultation with the Board, the Secretary has determined that the evaluation criteria related to prior performance of applicants under previously funded grants or cooperative agreements (§ 700.30(e)(3)(ii)(D) and § 700.30(e)(4)(ii)(E)) would require applicants to provide that information for evaluation by the peer reviewers. This information is already available to the Secretary and will be another factor considered by the Secretary in making award decisions under § 700.40(a)(3).

Discussion: The evaluation criteria under § 700.30(e)(3)(ii)(D) and § 700.30(e)(4)(ii)(E) duplicate the factors in § 700.40(a)(3) and thus impose an unnecessary burden on applicants.

Changes: § 700.30(e)(3)(ii)(D) and § 700.30(e)(4)(ii)(E) are deleted.

Paperwork Reduction Act of 1980

Section 700.30 contains information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education submitted a copy of this section to the Office of Management and Budget (OMB) for its review, and it was approved by OMB. (44 U.S.C. 3504(h))

These regulations affect the following types of entities eligible to apply for grants and cooperative agreements: State or local governments, businesses or other for profit organizations, nonprofit institutions, and any combinations of these types of entities. The Department needs and uses the information to evaluate applications for funding.

Annual public reporting and recordkeeping burden for this collection of information is estimated to range from 15 hours for each of the approximately 750 applications expected for a field initiated study competition to 150 hours for ten or fewer applications expected for a national research center. Therefore, the actual burden will be determined by the type of project to be supported in the particular competition.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

Based on the response to the proposed regulations and on its own review, the Department has determined that the regulations in this document do not require transmission of information that

is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 700

Education, Educational research, Elementary and secondary education, Government contracts, Grant programs—education, Libraries, Reporting and recordkeeping requirements.

Dated: September 11, 1995.

Richard W. Riley,

Secretary of Education.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

(Catalog of Federal Domestic Assistance Number does not apply.)

The Secretary amends Chapter VII of Title 34 of the Code of Federal Regulations by adding a new Part 700 to read as follows:

PART 700—STANDARDS FOR THE CONDUCT AND EVALUATION OF ACTIVITIES CARRIED OUT BY THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT (OERI)—EVALUATION OF APPLICATIONS FOR GRANTS AND COOPERATIVE AGREEMENTS AND PROPOSALS FOR CONTRACTS

Subpart A—General

Sec.

Subpart B—Selection of Peer Reviewers

Subpart C—The Peer Review Process

Subpart D—Evaluation Criteria

Subpart E—Selection for Award

Authority: 20 U.S.C. 6011(i).

Subpart A—General

§ 700.1 What is the purpose of these standards?

(a) The standards in this part implement section 912(i) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

(b) These standards are intended to ensure that activities carried out by the Office of Educational Research and Improvement (the Office) meet the highest standards of professional excellence.

(Authority: 20 U.S.C. 6011(i)(1))

§ 700.2 What activities must be governed by these standards?

(a) The standards in this part are binding on all activities carried out by the Office using funds appropriated under section 912(m) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

(b) Activities carried out with funds appropriated under section 912(m) of the Act include activities carried out by the following entities or programs:

(1) The National Research Institutes.

(2) The Office of Reform Assistance and Dissemination.

(3) The Educational Resources Information Center Clearinghouses.

(4) The Regional Educational Laboratories.

(5) The Teacher Research Dissemination Demonstration Program.

(6) The Goals 2000 Community Partnerships Program.

(7) The National Educational Research Policy and Priorities Board.

(Authority: 20 U.S.C. 6011(i)(1))

§ 700.3 What additional activities may be governed by these standards?

(a) The Secretary may elect to apply the standards in this part to activities carried out by the Department using funds appropriated under an authority other than section 912(m) of the Act.

(b)(1) If the Secretary elects to apply these standards to a competition for new grant or cooperative agreement awards, the Secretary announces, in a notice published in the **Federal Register**, the extent to which these standards are applicable to the competition.

(2) If the Secretary elects to apply these standards to a solicitation for a contract award, the Secretary announces in the request for proposals the extent to which these standards are applicable to the solicitation.

(Authority: 20 U.S.C. 6011(i)

§ 700.4 What definitions apply?

(a) *Definitions in the Educational Research, Development, Dissemination, and Improvement Act of 1994.* The following terms used in this part are defined in 20 U.S.C. 6011(l):

Development
Dissemination
Educational Research
Office
National Research Institute
Technical Assistance

(b) *Definitions in Education Department General Administrative Regulations.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Award
Department
Grant
Project
Secretary

(c) *Definitions in the Federal Acquisition Regulation.* The following terms used in this part are defined in 48 CFR Chapter 1:

Contracting Officer
Employee of an Agency
Proposal
Solicitation

(d) *Other definitions.* The following definitions also apply to this part:

Act means the Educational Research, Development, Dissemination, and Improvement Act of 1994 (Title IX of Pub. L. 103–227, 108 Stat. 212).

EDAR means the Education Department Acquisition Regulation, 48 CFR Chapter 34.

EDGAR means the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85 and 86. *FAR* means the Federal Acquisition Regulation, 48 CFR Chapter 1.

(Authority: 20 U.S.C. 6011)

§ 700.5 What are the processes of open competition?

The Secretary uses a process of open competition in awarding or entering into all grants, cooperative agreements, and contracts governed by these standards. The processes of open competition are the following:

(a) For all new awards for grants and cooperative agreements, the Secretary will make awards pursuant to the provisions of EDGAR with the exception of the provisions in 34 CFR 75.100(c)(5), 75.200(b)(3), (b)(5), 75.210, and 75.217(b)(1), (b)(2), (c), and (d); and

(b) For contracts, the Department will conduct acquisitions pursuant to this part in accordance with the requirements of the Competition in Contracting Act, 41 U.S.C. 253, and the FAR.

(Authority: 20 U.S.C. 6011(i)(2); 41 U.S.C. 253)

Subpart B—Selection of Peer Reviewers

§ 700.10 When is the peer review process used?

The Secretary uses a peer review process—

(a) To review and evaluate all applications for grants and cooperative agreements and proposals for those contracts that exceed $100,000;

(b) To review and designate exemplary and promising programs in accordance with section 941(d) of the Act; and

(c) To evaluate and assess the performance of all recipients of grants from and cooperative agreements and contracts with the Office.

(Authority: 20 U.S.C. 6011(i)(2)(B))

§ 700.11 Who may serve as peer reviewers?

(a) An individual may serve as a peer reviewer for purposes of reviewing and evaluating applications for new awards for grants and cooperative agreements and contract proposals if the individual—

(1) Possesses the following qualifications:

(i) Demonstrated expertise, including training and experience, in the subject area of the competition.

(ii) In-depth knowledge of policy or practice in the field of education.

(iii) In-depth knowledge of theoretical perspectives or methodological approaches in the subject area of the competition; and

(2) Does not have a conflict of interest, as determined in accordance with § 700.12.

(b) For each competition for new awards for grants and cooperative agreements—

(i) Department staff may not serve as peer reviewers except in exceptional circumstances as determined by the Secretary; and

(ii) The majority of reviewers may be persons not employed by the Federal Government.

(2) For each review of an unsolicited grant or cooperative agreement application—

(i) Department employees may assist the Secretary in making an initial determination under 34 CFR 75.222(b); and

(ii) Department employees may not serve as peer reviewers in accordance with 34 CFR 75.222(c).

(c) To the extent feasible, the Secretary selects peer reviewers for each competition who represent a broad range of perspectives.

(Authority: 20 U.S.C. 6011(i)(2)(B))

§ 700.12 What constitutes a conflict of interest for grants and cooperative agreements?

(a) Peer reviewers for grants and cooperative agreements are considered employees of the Department for the purposes of conflicts of interest analysis.

(b) As employees of the Department, peer reviewers are subject to the provisions of 18 U.S.C. 208, 5 CFR 2635.502, and the Department's policies used to implement those provisions.

(Authority: 20 U.S.C. 6011(i)(2)(B))

§ 700.13 What constitutes a conflict of interest for contracts.

(a) Peer reviewers for contract proposals are considered employees of the Department in accordance with FAR, 48 CFR 3.104–4(h)(2).

(b) As employees of the Department, peer reviewers are subject to the provisions of the FAR, 48 CFR Part 3 Improper Business Practices and Personal Conflict of Interest.

(Authority: 41 U.S.C. 423)

Subpart C—The Peer Review Process

§ 700.20 How many peer reviewers will be used?

(a) Each application for a grant or cooperative agreement award must be reviewed and evaluated by at least three peer reviewers except—

(1) For those grant and cooperative agreement awards under $50,000, fewer than three peer reviewers may be used if the Secretary determines that adequate peer review can be obtained using fewer reviewers; and

(2) For those grant and cooperative agreement awards of more than $1,000,000, at least five reviewers must be used.

(b) Each contract proposal must be read by at least three reviewers unless the contracting officer determines that an adequate peer review can be obtained by using fewer reviewers.

(c) Before releasing contract proposals to peer reviewers outside the Federal Government, the contracting officer shall comply with FAR, 48 CFR 15.413–2(f).

(Authority: 20 U.S.C. 6011(i)(2)(B))

§ 700.21 How are applications for grants and cooperative agreements evaluated?

(a) Each peer reviewer must be given a number of applications to evaluate.

(b) Each peer reviewer shall—

(1) Independently evaluate each application;

(2) Evaluate and rate each application based on the reviewer's assessment of the quality of the application according to the evaluation criteria and the weights assigned to those criteria; and

(3) Support the rating for each application with concise written comments based on the reviewer's analysis of the strengths and weaknesses of the application with respect to each of the applicable evaluation criteria.

(c) (1) Except as provided in paragraph (c)(2) of this section, after each peer reviewer has evaluated and rated each application independently, those reviewers who evaluated a common set of applications are convened to discuss the strengths and weaknesses of those applications. Each reviewer may then independently reevaluate and re-rate an application with appropriate changes made to the written comments.

(2) Reviewers are not convened to discuss an unsolicited application unless the Secretary determines that discussion of the application's strengths and weaknesses is necessary.

(d) Following discussion and any reevaluation and re-rating, reviewers shall independently place each application in one of three categories, either ''highly recommended for funding,'' ''recommended for funding'' or ''not recommended for funding.''

(e) After the peer reviewers have evaluated, rated, and made funding recommendations regarding the applications, the Secretary prepares a rank order of the applications based solely on the peer reviewers' ratings.

(Authority: 20 U.S.C. 6011(i)(2)(C))

§ 700.22 How are proposals for contracts evaluated?

(a) Each peer reviewer must be given a number of technical proposals to evaluate.

(b) Each peer reviewer shall—

(1) Independently evaluate each technical proposal;

(2) Evaluate and rate each proposal based on the reviewer's assessment of the quality of the proposal according to the technical evaluation criteria and the importance or weight assigned to those criteria; and

(3) Support the rating for each proposal with concise written comments based on the reviewer's analysis of the strengths and weaknesses of the proposal with respect to each of

the applicable technical evaluation criteria.

(c) After each peer reviewer has evaluated each proposal independently, those reviewers who evaluated a common set of proposals may be convened to discuss the strengths and weaknesses of those proposals. Each reviewer may then independently reevaluate and re-rate a proposal with appropriate changes made to the written comments.

(d) Following discussion and any reevaluation and re-rating, reviewers shall rank proposals and advise the contracting officer of each proposal's acceptability for contract award as ''acceptable,'' ''capable of being made acceptable without major modifications,'' or ''unacceptable.'' Reviewers may also submit technical questions to be asked of the offeror regarding the proposal.

(Authority: 20 U.S.C. 6011(i)(2)(C))

Subpart D—Evaluation Criteria

§ 700.30 What evaluation criteria are used for grants and cooperative agreements?

(a) Except as provided in paragraph (d) of this section, the Secretary announces the applicable evaluation criteria for each competition and the assigned weights in a notice published in the **Federal Register** or in the application package.

(b) In determining the evaluation criteria to be used in each grant and cooperative agreement competition, the Secretary selects from among the evaluation criteria in paragraph (e) of this section and may select from among the specific factors listed under each criterion.

(c) The Secretary assigns relative weights to each selected criterion and factor.

(d) In determining the evaluation criteria to be used for unsolicited applications, the Secretary selects from among the evaluation criteria in paragraph (e) of this section, and may select from among the specific factors listed under each criterion, the criteria which are most appropriate to evaluate the activities proposed in the application.

(e) The Secretary establishes the following evaluation criteria:

(1) *National significance.*

(i) The Secretary considers the national significance of the proposed project.

(ii) In determining the national significance of the proposed project, the Secretary may consider one or more of the following factors:

(A) The importance of the problem or issue to be addressed.

(B) The potential contribution of the project to increased knowledge or understanding of educational problems, issues, or effective strategies.

(C) The scope of the project.

(D) The potential for generalizing from project findings or results.

(E) The potential contribution of the project to the development and advancement of theory and knowledge in the field of study.

(F) Whether the project involves the development or demonstration of creative or innovative strategies that build on, or are alternatives to, existing strategies.

(G) The nature of the products (such as information, materials, processes, or techniques) likely to result from the project and the potential for their effective use in a variety of other settings.

(H) The extent and quality of plans for disseminating results in ways that will allow others to use the information.

(2) *Quality of the project design.*

(i) The Secretary considers the quality of the design of the proposed project.

(ii) In determining the quality of the design of the proposed project, the Secretary may consider one or more of the following factors:

(A) Whether the goals, objectives, and outcomes to be achieved by the project are clearly specified and measurable.

(B) Whether there is a conceptual framework underlying the proposed activities and the quality of that framework.

(C) Whether the proposed activities constitute a coherent, sustained program of research and development in the field, including a substantial addition to an ongoing line of inquiry.

(D) Whether a specific research design has been proposed, and the quality and appropriateness of that design, including the scientific rigor of the studies involved.

(E) The extent to which the research design includes a thorough, high-quality review of the relevant literature, a high-quality plan for research activities, and the use of appropriate theoretical and methodological tools, including those of a variety of disciplines, where appropriate.

(F) The quality of the demonstration design and procedures for documenting project activities and results.

(G) The extent to which development efforts include iterative testing of products and adequate quality controls.

(H) The likelihood that the design of the project will successfully address the intended, demonstrated educational need or needs.

(I) How well and innovatively the project addresses statutory purposes, requirements, and any priority or priorities announced for the program.

(J) The quality of the plan for evaluating the functioning and impact of the project, including the objectivity of the evaluation and the extent to which the methods of evaluation are appropriate to the goals, objectives, and outcomes of the project.

(3) *Quality and potential contributions of personnel.*

(i) The Secretary considers the quality and potential contributions of personnel for the proposed project.

(ii) In determining the quality and potential contributions of personnel for the proposed project, the Secretary may consider one or more of the following factors:

(A) The qualifications, including training and experience, of the project director or principal investigator.

(B) The qualifications, including training and experience, of key project personnel.

(C) The qualifications, including training and experience, of proposed consultants or subcontractors.

(4) *Adequacy of resources.*

(i) The Secretary considers the adequacy of resources for the proposed project.

(ii) In determining the adequacy of resources for the proposed project, the Secretary may consider one or more of the following factors:

(A) The adequacy of support from the lead applicant organization.

(B) The relevance and commitment of each partner in the project to the implementation and success of the project.

(C) Whether the budget is adequate to support the project.

(D) Whether the costs are reasonable in relation to the objectives, design, and potential significance of the project.

(E) The potential for continued support of the project after federal funding ends.

(5) *Quality of the management plan.*

(i) The Secretary considers the quality of the management plan of the proposed project.

(ii) In determining the quality of the management plan of a proposed project, the Secretary may consider one or more of the following factors:

(A) The adequacy of the management plan to achieve the objectives of the project, including the specification of staff responsibility, timelines, and benchmarks for accomplishing project tasks.

(B) The adequacy of plans for ensuring high-quality products and services.

(C) The adequacy of plans for ensuring continuous improvement in the operation of the project.

(D) Whether time commitments of the project director or principal investigator and other key personnel are appropriate and adequate to meet project objectives.

(E) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the project, including those of parents and teachers, where appropriate.

(F) How the applicant will ensure that persons who are otherwise eligible to participate in the project are selected without regard to race, color, national origin, gender, age, or disability.

(G) The adequacy of plans for widespread dissemination of project results and products in ways that will assist others to use the information.

(Approved by the Office of Management and Budget under control number 1850–0723)

(Authority: 20 U.S.C. 6011(i)(2)(D)(ii))

§ 700.31 What additional evaluation criteria shall be used for grants and cooperative agreements?

In addition to the evaluation criteria established in § 700.30(e), the Secretary uses criteria or factors specified in the applicable program statute to evaluate applications for grants and cooperative agreements.

(Authority: 20 U.S.C. 6011(i)(2)(D)(ii))

§ 700.32 What evaluation criteria shall be used for contracts?

(a) The evaluation criteria to be considered in the technical evaluation of contract proposals are contained in the FAR at 48 CFR 15.605. The evaluation criteria that apply to an acquisition and the relative importance of those factors are within the broad discretion of agency acquisition officials.

(b) At a minimum, the evaluation criteria to be considered must include cost or price and quality. Evaluation factors related to quality are called technical evaluation criteria.

(c) Technical evaluation criteria may include, but are not limited to, the following:

(1) Technical excellence.
(2) Management capability.
(3) Personnel qualifications.
(4) Prior experience.
(5) Past performance.
(6) Schedule compliance.

(Authority: 20 U.S.C. 6011(i)(2)(D)(ii))

Subpart E—Selection for Award

§ 700.40 How are grant and cooperative agreement applications selected for award?

(a) The Secretary determines the order in which applications will be selected for grants and cooperative agreement awards. The Secretary considers the following in making these determinations:

(1) An applicant's ranking.

(2) Recommendations of the peer reviewers with regard to funding or not funding.

(3) Information concerning an applicant's performance and use of funds under a previous Federal award.

(4) Amount of funds available for the competition.

(5) Any other information relevant to a priority or other statutory or regulatory requirement applicable to the selection of applications for new awards.

(b) In the case of unsolicited applications, the Secretary uses the procedures in EDGAR (34 CFR 75.222(d) and (e)).

(Authority: 20 U.S.C. 6022(i)(2)(D)(i))

§ 700.41 How are contract proposals selected for award?

Following evaluation of the proposals, the contracting officer shall select for award the offeror whose proposal is most advantageous to the Government considering cost or price and the other factors included in the solicitation.

(Authority: 20 U.S.C. 6011(i)(2)(D)(i))

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Federal Register

Thursday
September 14, 1995

Part III

Department of Education

Grants and Cooperative Agreements; Availability, etc.: Educational Research and Development Centers Program; Notices

DEPARTMENT OF EDUCATION

Office of Educational Research and Improvement (OERI); Educational Research and Development Centers Program

AGENCY: Department of Education.

ACTION: Notice of final priorities.

SUMMARY: The Secretary announces final priorities to support seven national research and development centers that would carry out sustained research and development to address nationally significant problems and issues in education.

EFFECTIVE DATE: These priorities take effect October 16, 1995.

FOR FURTHER INFORMATION CONTACT: Either—

1. Jacqueline Jenkins, U.S. Department of Education, 555 New Jersey Avenue NW, Room 510G, Washington, DC 20208–5573. Telephone: (202) 219–2232. Internet: Jackie—Jenkins@ed.gov or;

2. Judith Anderson, U.S. Department of Education, 555 New Jersey Avenue NW, Room 611B, Washington, DC 20208–5573. Telephone: (202) 219–2086. Internet: Judith-Anderson@ed.gov.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Title IX of Public Law 103–227, the Educational Research, Development, Dissemination, and Improvement Act of 1994, re-authorized the Office of Educational Research and Improvement and established five new national research institutes to carry out coordinated and comprehensive programs of research, development, evaluation, demonstration, and dissemination designed to provide research-based leadership for the improvement of education. The five institutes are—

(1) The National Institute on Student Achievement, Curriculum, and Assessment;

(2) The National Institute on the Education of At-Risk Students;

(3) The National Institute on Educational Governance, Finance, Policy-Making, and Management;

(4) The National Institute on Early Childhood Development and Education; and

(5) The National Institute on Postsecondary Education, Libraries, and Lifelong Learning.

The institutes support sustained research and development focused on significant national problems and issues in education conducted by national research and development centers. The statute specifies that each institute will support one or more national research and development centers. For the purpose of this notice, Priority 1 is related to the National Institute on Early Childhood Development and Education; Priorities 2 and 3 are related to the National Institute on Student Achievement, Curriculum, and Assessment; Priority 4 is related to the National Institute on the Education of At-Risk Students; Priority 5 is related to the National Institute on Educational Governance, Finance, Policy-Making, and Management; and Priorities 6 and 7 are related to the National Institute on Postsecondary Education, Libraries, and Lifelong Learning.

The Office of Educational Research and Improvement (OERI), through a series of meetings, regional hearings, and **Federal Register** Notices, solicited advice from parents, teachers, administrators, policy-makers, business people, researchers, and others to identify the most needed research and development activities. After reviewing this advice, the Secretary published on April 10, 1995, a notice in the **Federal Register** (60 FR 18340) inviting written public comments on proposed priorities for seven national educational research and development centers that would carry out sustained research and development to address nationally significant problems and issues in education. Written public comments were to be submitted by May 25, 1995.

On June 8, 1995, at the meeting of OERI's National Educational Research Policy and Priorities Board (Board), the Board reviewed and commented on staff summaries of the written public comments. A committee of the Board held a public meeting on July 18, 1995, to review the written public comments and to make recommendations to the Assistant Secretary on the priorities. The Department has incorporated the committee's recommendations and explained the reasoning for those recommendations in the comment/discussion sections of the document.

Note: This notice of final priorities does not solicit applications. A notice inviting applications under this competition is published in a separate notice in this issue of the **Federal Register**.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priorities, 248 parties submitted written comments. An analysis of the comments and of the changes in the priorities since publication of the notice of proposed priorities is published as an appendix to this notice of final priorities. Major issues are grouped according to subject. Technical and other minor changes and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority are not addressed.

Absolute Priorities

Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet both the general priority and one of the individual priorities listed below. Funding of any individual priority will depend on the availability of funds, priority, and the quality of applications received.

General Absolute Priority: Each national research and development center must—

(a) Conduct a coherent, sustained program of research and development to address problems and issues of national significance in its individual priority area, using a well-conceptualized and theoretically sound framework;

(b) Contribute to the development and advancement of theory in the area of its individual priority;

(c) Conduct scientifically rigorous studies capable of generating findings that contribute substantially to understanding in the field;

(d) Conduct work of sufficient size, scope, and duration to produce definitive guidance for improvement efforts and future research;

(e) Address issues of both equity and excellence in education for all students in its individual priority area; and

(f) Document, report, and disseminate information about its research findings and other accomplishments in ways that will facilitate effective use of that information in professional development for teachers, families, and community members, as appropriate.

Absolute Priority 1: Enhancing Young Children's Development and Learning

Under this priority, a national research and development center must—

(a) Conduct research and development on enhancing the development and learning of young children from birth to age eight, with special focus on children who are placed at risk of educational failure because of community, economic, linguistic, family, or disability factors; and

(b) Include in its work research or development related to the following topics:

(1) Effective practices and programs for maximizing the development and learning of young children from diverse

backgrounds, emphasizing the whole child and developmentally appropriate strategies;

(2) Effective professional development for educators and other early childhood personnel;

(3) Family and community support for young children's development and learning; and

(4) Effective programs and practices for supporting young children during crucial transition periods, from infant to toddler, toddler to preschooler, and preschooler to early elementary school student.

(c) Develop and field test a set of 3–5 hypothetical cases that can be used in training and other settings to help practitioners, families, and community members develop and extend their knowledge and skills to address effectively the development and learning needs of young children; and stimulate new debate, hypotheses, and research.

Absolute Priority 2: Improving Student Learning and Achievement

Under this priority, a national research and development center must—

(a) Conduct research and development on improving student achievement, which must be comprised of research and development on improving learning, teaching, and assessment within a content area; and

(b) Include in its work research or development related to the following topics:

(1) How students acquire knowledge and skills;

(2) Curriculum and effective instruction, including the use of technology, which reflects current understanding of cognitive development, the social context of learning, and student motivation;

(3) Effective professional development for teachers and other school personnel; and

(4) Assessment for improving teaching and learning, including the technical quality of such assessments.

Absolute Priority 3: Improving Student Assessment and Educational Accountability

Under this priority, a national research and development center must—

(a) Conduct research and development on improving student assessment; and

(b) Include in its work research or development related to the following topics:

(1) Development and use of assessments aligned with curriculum and instruction to promote improved teaching, learning, and educational accountability, including the use of assessment in student placement;

(2) The use of accommodations, adaptations, and alternative assessments to enable all students to participate in assessment systems;

(3) The creation of coherent systems that assess diverse student outcomes using multiple measures and multiple assessments; and

(4) The technical quality (validity, reliability, fairness, and content and skill coverage) of different types of assessments and assessment systems, including accommodations, adaptations, and alternative assessments.

Absolute Priority 4: Meeting the Educational Needs of a Diverse Student Population

Under this priority, a national research and development center must—

(a) Conduct research and development on meeting the educational needs of an increasingly diverse student population, including students who are at risk of educational failure because of limited English proficiency, poverty, race, geographical location, or economic disadvantage; and

(b) Include in its work research or development related to at least two of the following topics:

(1) Instructional strategies that recognize and build on the strengths of students from diverse backgrounds to help all students achieve to high academic standards;

(2) Training and professional development activities that enhance the ability of educators, families, and communities to help language minority students and other students at risk of educational failure achieve to high academic standards;

(3) Working with families and community-based organizations, through such means as structuring out-of-school experiences as well as providing support for school-based programs, to help students at risk of educational failure achieve to high academic standards; and

(4) Ways that federal, state, tribal government, and community reform efforts can be designed so that language minority students and other students at risk of educational failure learn to high standards.

Absolute Priority 5: Increasing the Effectiveness of State and Local Education Reform Efforts

Under this priority, a national research and development center must—

(a) Conduct research and development on increasing the effectiveness of state and local efforts to reform elementary and secondary education; and

(b) Include in its work research or development related to the following topics:

(1) Local and school level strategies for reform that create supportive and secure learning environments and lead to improved learning by all students including district and/or schoolwide reforms and partnerships and productive collaboration among families, communities, and schools;

(2) State and local policies that support improved learning by all students including aligning elements of the education system to achieve challenging student standards, enhancing licensing systems for teachers and other education professionals, and providing incentives for reform;

(3) State and local finance strategies that lead to improved learning by all students, including strategies for the equitable distribution of programs and services and strategies for the productive allocation of resources;

(4) State and local governance arrangements that support improved learning by all students including those that involve new opportunities and responsibilities for educators, families, and communities; and

(5) The factors that contribute most to the success of state, district, and school-level reforms, from initiation through implementation to ''scaling up,'' including how variations in context affect the implementation and effects of various strategies.

Absolute Priority 6: Improving Postsecondary Education

Under this priority, a national research and development center must—

(a) Conduct research and development on improving quality, productivity and outcomes of postsecondary education; and

(b) Include in its work research or development related to three or more of the following topics:

(1) Transitions from school to work, or to further education, for secondary and postsecondary students, including, but not limited to, development of effective K–16 systems;

(2) Relationships among students' participation and progress in postsecondary education, their academic achievement, and their later employment outcomes;

(3) Approaches to professional development geared to improving

postsecondary instruction and student learning, including preparation of K–12 educators;

(4) Improvement of postsecondary student learning and assessment; and

(5) Containing costs and improving the productivity and accountability of postsecondary institutions.

Absolute Priority 7: Improving Adult Learning and Literacy

Under this priority, a national research and development center must—

(a) Conduct research and development on improving adult learning and literacy through delivery methods and systems other than postsecondary institutions, including the basic skills needed for work and responsible citizenship; and

(b) Include in its work research or development related to topic (b)(2) below and one or more of the other topics:

(1) Adult acquisition of knowledge and development of linguistic, quantitative, and reasoning skills, including adult acquisition of second-language skills and computer skills;

(2) Effective strategies and technology for providers, including libraries, community organizations, and family literacy programs, to improve adult learning and literacy for all adult populations, including adults with special needs and those needing English as second language instruction;

(3) Effective methods, including use of technology, for professional development of instructional staff for adult education and literacy programs, including English as second language programs and programs for adults with special needs; and

(4) The assessment of adult learning and literacy.

Post-Award Requirements

The Secretary establishes the following post-award requirements consistent with the Educational Research, Development, Dissemination, and Improvement Act of 1994. A grantee receiving a center award must—

(a) Provide OERI with information about center projects and products and other appropriate research information so that OERI can monitor center progress and maintain its inventory of funded research projects. This information must be provided through media that include an electronic network;

(b) Conduct and evaluate research projects in conformity with the highest professional standards of research practice;

(c) Reserve five percent of each budget period's funds to support activities that fall within the center's priority area, are designed and mutually agreed to by the center and OERI, and enhance OERI's ability to carry out its mission. Such activities may include developing research agendas, conducting research projects collaborating with other federally-supported entities, and engaging in research agenda setting and dissemination activities; and

(d) At the end of the award period, synthesize the findings and advances in knowledge that resulted from the Center's program of work and describe the potential impact on the improvement of American education, including any observable impact to date.

Authority: Pub. L. 103–227, Title IX.

Dated: August 31, 1995.

Sharon Porter Robinson,

Assistant Secretary for Educational Research and Improvement.

(Catalog of Federal Domestic Assistance Numbers 84.305, 84.306, 84.307, 84.308, and 84.309 Educational Research and Development Centers Program)

Appendix—Analysis of Comments and Changes

General Absolute Priority

Summarized below are comments which either referred specifically to the General Absolute Priority or cut across all the priorities.

Comments Related to Improving Practice

Comments: Six commenters recommended changes which they believed would increase the likelihood that the centers would conduct research likely to improve practice. The comments included: Add statement about the importance of translating research findings to improvements in practice; include stronger language to encourage utilization of the outcomes of the research program by practitioners; replace the phrase ''will allow others to use that information'' in (f) with ''will encourage effective use of that information;'' and add an additional requirement, ''(g) Increasing the capacity of field-based practitioners.'' Another commenter stated that all work must include practitioner-researcher collaborations. The Board committee similarly recommended that stronger language be used to ensure that Center research findings are actually used in professional development activities for teachers, families, and community members.

Discussion: The Secretary agrees that the centers should conduct research which is likely to improve practice and that dissemination plays an integral role in research and development activities that promise to have a positive impact on improving education. The Secretary also agrees about the importance of translating research findings so that results of research may find their way into practice.

Changes: The Secretary has amended (f) to read ''Document, report, and disseminate information about its research findings and other accomplishments in ways that will facilitate effective use of that information in professional development for teachers, families, and community members, as appropriate.''

Comments on Technology

Comments: Five commenters submitted comments related to technology. One commenter recommended the establishment of a national center on educational technology or that a requirement to conduct research and development on promoting the use of educational technology be included in the general absolute priority. One commenter was concerned about the lack of any mention of research in the area of computer technology. Two commenters said that technology should be dealt with as a cross-cutting issue. Another commenter requested that all of the institutes include work on assistive technology.

Discussion: The Secretary agrees that technology should be dealt with as a cross-cutting issue. Therefore, a separate center on this topic is not appropriate. Furthermore, the Secretary believes that the particular types of research in the area of technology should be proposed by the applicants and not mandated by the Department. The Secretary encourages all applicants to identify appropriate research topics related to technology.

Changes: None.

Comments on Coordination

Comments: Seven commenters noted the importance of communication and coordination. One commenter stated that the centers must communicate with each other in areas of overlap, as well as establish working relationships with the Regional Laboratories. Several commenters made more specific recommendations concerning coordination and communication: Include funds for consultations with parent and education advocacy organizations; require collaboration with other federally-supported entities in the absolute priority, not in the post-award requirement; require that the centers and the other research components in ED, including the research component in the Office of Special Education Programs, maintain regular contact; require centers to develop interagency working agreements with agencies and other entities to promote inter-institutional cooperation and private/public partnerships in the delivery of educational and library services, as well as to emphasize research into organizational design and educational management and delivery systems; and require the new centers to work directly with professional societies, in order to link the research agenda to specific subject areas.

Discussion: The Secretary believes that research and development centers should work with federally supported institutions and other entities to maximize the impact that their activities may have on improvements in the educational system. The instructions provided to applicants will provide examples of ways in which proposed centers could collaborate with these types of entities.

The Secretary believes that inter-institutional cooperation and partnerships for

the delivery of educational and library services are important, as is research on organizational design and educational management and delivery systems, but that these are not areas of research which should be mandated for all research and development centers.

Changes: None.

Comments on Dissemination

Comments: Four commenters recommended that the requirements for dissemination should be strengthened. These commenters recommended that the requirement for documenting, reporting, and disseminating information be strengthened; that an essential component of the centers be the development and implementation of effective dissemination strategies; and that dissemination be given a higher priority.

Discussion: The Secretary believes that dissemination plays an integral role in research and development activities that promise to have a positive impact on improving education. The Secretary believes that the particular types of dissemination activities that will best accomplish this objective depend on (1) the nature of the research knowledge being generated and (2) the potential users of this knowledge. The application package will provide examples of possible dissemination strategies.

Changes: None.

Comments Related to Cost

Comments: Three commenters recommended that the centers be required to address issues of cost or cost-effectiveness. These commenters recommended that each center be challenged not only to address issues of equity and excellence, but also to address issues related to adequacy of resources in its individual priority area; that centers should provide an assessment of the resources required to implement the practices and programs they research and develop; that cost or cost-effectiveness research should be required under all of the priorities; and that each research study should address the issue of cost-effectiveness and creative models and partnerships that could improve cost-effectiveness.

Discussion: The Secretary agrees with the importance of the issues raised by the commenters but believes that grant applicants should be allowed maximum flexibility to develop research agendas within the absolute priority areas. In addition, the Secretary believes it is inappropriate to mandate specific research topics, such as cost-effectiveness, given the limited resources available for supporting the centers. However, applicants are encouraged to address these issues as appropriate in their overall research plans.

Changes: None.

Comments Related to Students With Disabilities

Comments: Eight commenters recommended that the priorities place greater emphasis on students with disabilities. Several commenters stated that all the centers should be required to include research activities on the educational problems of students with disabilities, with one commenter recommending setting aside one-third of their funds to support efforts on this issue. Another commenter recommended requiring grantees to include weighted samples of populations of students with serious emotional disturbance; requiring all institutes to set aside at least 10 percent of funds to study these populations; and inserting the word ''all'' before the word ''students'' throughout all of the priorities.

Discussion: The Secretary believes that problems and issues of national significance addressed in the individual priorities are relevant to the needs of all students. In many instances individual children and youth fall into several population categories, for example, young children with disabilities living in rural poverty. The Secretary believes that better applications will result if applicants are allowed to propose and justify what population or populations will be studied in their proposed centers' research and development activities. However, the Secretary does believe that it is important to ensure that centers consider the needs of all students as they design their research activities.

Changes: The Secretary has modified the General Absolute Priority to make clear that the needs of all students are to be included in centers' research. The revised priority states: ''(e) Address issues of both equity and excellence in education for all students in its individual priority area.''

Comments Related to Size, Scope, and Methodology

Comments: Nine commenters recommended various changes related to issues of size, scope, and methodology. One commenter recommended adding a requirement that each center must produce at least one definitive study, and, in addition, suggested a requirement that each center must embed internal and external evaluation in all activities. One commenter stated that the emphasis on size, scope, duration, and definitive guidance will lead to biasing proposals toward large scale empirical studies; this commenter wanted the priority to specifically mention funding for small scale projects. One commenter was concerned there would be too many centers and too many mandated tasks for some centers given the amount of funding. Another commenter supported the emphasis on scientific research of sufficient scope to answer key questions. This commenter also recommended that the Department give priority to centers that take advantage of major research efforts underway and design new research targeted to questions that cannot be answered by on-going research or existing data bases. One commenter recommended that the scope should be defined to include depth as well as breadth of topics; and one commenter stated that explicit mention should be made of the desirability of multidisciplinary perspectives. Another commenter believed that the individual topics included in the research or development to be undertaken by the centers are written at an appropriate level of specificity. One commenter did not like the idea of large centers addressing broad areas and would prefer either more, smaller grants, or requiring multi-site proposals, with offerers allowed at least nine months to assemble proposals. Another commenter recommended including in section (b) of the General Absolute Priority the expectation that the centers would contribute to methodological advances in the field.

Discussion: The Secretary agrees that each center should produce at least one definitive study and believes that section (d) of the General Absolute Priority is sufficient to ensure that centers will meet this requirement. The Secretary agrees that centers should evaluate their work, and believes that the requirement to conduct scientifically rigorous studies will ensure that centers are held accountable for conducting high quality research. The Secretary does not believe that requiring work of sufficient size, scope, and duration to produce definitive guidance will prohibit centers from conducting small studies. The Secretary encourages the use of multidisciplinary approaches, but does not believe that they should be mandated; instead, applicants should be allowed the opportunity to select approaches which they believe represent the best possible center package. The Secretary does not believe that the centers are too large, or that they are addressing areas that are too broad. The legislative mandate calls for centers that are ''of sufficient size, scope, and quality * * * to support a full range of basic research, applied research and dissemination activities.'' The Secretary believes that it is reasonable to require sustained research across the five years of the grant.

Changes: None.

Requests for Funding Additional Centers

Comments: Several commenters recommended funding additional centers. One wanted to add an evaluation center. One commenter requested that the Department establish a center for policy research and decisionmaking. Thirty-three commenters expressed support for continued funding of a center on families. Eighty commenters voiced support for continued funding of centers in the language arts, e.g., writing and literature. Thirty-two commenters expressed support for continuing a center on research on evaluation of educational personnel and teacher professionalization. Four commenters suggested that there should be a focus on content areas; another was especially concerned about science and mathematics.

Discussion: Given the Congressional mandate to support centers ''of sufficient size, scope, and quality * * *'' and given limited resources, the Secretary recognizes that these priorities cannot address all of the topics recommended by the commenters.

Changes: None.

Cross-Cutting Issue of Eligibility

Comment: One commenter recommended that non-profit organizations as well as institutions of higher learning be eligible to apply for center grants.

Discussion: The statute requires that grants be awarded to centers ''established by institutions of higher education, by institutions of higher education in consortium with public agencies or private non-profit organizations, or by interstate agencies established by compact which

operate subsidiary bodies established to conduct postsecondary educational research and development.''

Changes: None.

Other Cross-Cutting Issues

Comments: A variety of other comments were related to cross-cutting issues or the priorities as a whole. One commenter requested an emphasis on the importance of family and community contexts, as well as of schools. One commenter stated that all centers should be expected to address issues over the full range of differences among individuals. One commenter expressed concern over the role of libraries and information services in the proposed research priorities. One commenter stated that for each of the seven priorities, a great deal of information on best practice is available, that this information needs to be summarized and shared, and that the institutes should form best practice review boards. One commenter suggested that all of the proposed priorities should address the needs of diverse student populations. One commenter stated that tribal involvement and consultation should be considered throughout the description of the seven priority areas. One commenter wanted the final priorities to include an absolute requirement that centers demonstrate capacity and interest in developing student-centered research and development strategies; include plans for involving students and their families in the development of the work of the center; and include plans for the demonstration of the ultimate student-centered outcomes which result from the work. One commenter stated that cross-research activity would strengthen the centers, and recommended allowing each center to conduct a portion of its work in a related priority area. One commenter suggested that the research agenda should include programs that assist state and local educators with implementation of improvements. One commenter expressed a number of concerns including: The apparent lack of an overall guiding plan; too limited information for applicants about the priorities and about existing activities; an unclear distinction between research and development; too little integration of proposed work with other OERI activities; inadequate integration of similar research and development tasks across the centers; failure to identify key intervention points in the life course; and failure to address some of the most important ways of helping disadvantaged students. One commenter stated that it is unclear how the seven centers relate to the five Institutes; and one commenter wanted to know why field-initiated research was not mentioned.

Discussion: The Secretary recognizes that there is merit to many of these suggestions. However, the Secretary believes that the mandatory requirements imposed on applicants should be held to a minimum in order to allow applicants the flexibility to propose work that will lead to the improvement of American education. Applicants are required to conduct a coherent, sustained program of research and development to address problems and issues of national significance within an individual priority, but the Secretary believes decisions about which issues to cover should be left to the applicant. The section entitled ''Supplementary Information'' provides further clarification of the relationship between the seven centers and the five Institutes. The statute requires that each Institute reserve at least 20 percent of its funding each fiscal year for field-initiated studies.

Changes: None.

Absolute Priority 1: Promoting the Cognitive and Social-Emotional Development of Young Children

Overview: A total of 48 letters contained comments on Priority 1. Some commenters discussed more than one topic in their correspondence.

Comments Related to the Title

Comments: Seven commenters expressed concern that the title focused too narrowly on cognitive and social-emotional development alone and thereby failed to consider the total development of the child. Two of these commenters recommended that the title be expanded to include the physical development of young children. Two commenters wanted the title to include health outcomes for children. Three of the commenters suggested that language and/or motor development also be included. Another commenter suggested the title be changed to ''Services that Promote the Cognitive and Social-Emotional Development of Young Children.'' Another wanted the title to focus solely on the cognitive development of young children.

Discussion: The Secretary agrees that school readiness extends beyond the dimensions of cognitive and social-emotional development and that the focus of research and development in this topical area should be holistic.

Changes: The Secretary believes that the phrase ''development and learning'' conveys the priority's intent to focus on the whole child. Consequently, the Secretary has modified the priority's title to read: ''Enhancing Young Children's Development and Learning.''

Comments Regarding Focus

Comments: Fifteen commenters believed that the priority should shift its focus from young children to their environments, which the respondents defined as family, teachers and other significant caregivers. These commenters stated that there is considerable research in the field on child development and on the factors which directly influence children's well-being. The commenters believe that what is needed is research on programs, strategies and policies which influence parents, educators, and others in the child's environment and enable them to become more effective in supporting children. The commenters maintain that it is just as important for schools to be ready for children, as it is for children to be ready for school. Several commenters recommended the priority's research and development activities should include: Interprofessional development and collaboration—research designed to inform ''professional practice, professional development, and policy;'' the relationship between public policies and the abilities of parents and educators to support children's development, including family leave policy, proposed reductions in social service programs, and consolidation of categorical child care and early childhood programs into block grants to the States; effective dissemination of early childhood information for use by parents and professionals; and involvement of early childhood professionals in research efforts by the international community.

Discussion: The Secretary believes that young children should remain the central focus of this center. However, the Secretary also understands that research on improving the environments which shape child development is an integral part of this center's work. The Secretary agrees that this priority should include research and development activities on interprofessional development. The Secretary further believes that research can guide and inform policy. Therefore, applicants may choose to address policy issues in their applications, but it is not a requirement.

Changes: In responding to the calls for an emphasis on young children's environments and work on interprofessional development, the Secretary has amended this priority to specifically address these concerns in sections (b) and (c).

Comments on Targeted Populations

Comments: Fourteen comments addressed the parameters of the priority's target populations. Although the proposed priority did not specify an age range, seven commenters recommended that research and development activities focus on children from birth to the age of eight. Five commenters wanted to clarify the phrase ''children * * * at risk'' in section (a) by adding specific risk factors, including biological, socio-cultural, environmental, and disabling conditions. One commenter wanted to modify section (a) by replacing the word ''especially'' with ''including,'' to preclude the proposed center from duplicating the work of an already-established center for the education of children at-risk.

Discussion: The Secretary agrees that the concept of ''young children,'' for the purposes of this center, should extend from birth to the age of eight. The Secretary also agrees that it is important to make clear that children who are culturally, economically and/or biologically vulnerable, as well as children with disabling conditions, are not to be excluded from research activities. However, the Secretary believes that each of these suggested factors of risk is already encompassed in section (a), and therefore, the Secretary has not changed the list of enumerated factors. Furthermore, the Secretary recognizes that the proposed center and the existing center for students placed at risk of educational failure do share a focus on the early elementary grades. The Secretary believes, however, that the work of each center will be unique and not duplicative. Therefore, the Secretary sees no need to modify the language of this priority by replacing the word ''especially'' with the word ''including.''

Changes: The Secretary has amended section (a) of the final priority to clarify the

target population as children from birth through the age of eight.

Comments on Families: Three commenters recommended that the role of families needs to be strengthened throughout the priority. One commenter stated that the proposed priority ''ignores the central role families play in the educational development of children.'' One commenter stated that ''family processes have profound effects on early development and should be considered both in studies of development and in studies of policy and services.'' One commenter recommended that the priority should address family-centered approaches that can be adapted to diverse community contexts. Similarly, the Board committee recommended that families and communities be further emphasized in this priority.

Discussion: The Secretary understands the critical impact of families on young children's development and success in school and consequently the need for research and development activities that can strengthen supports and services for families.

Changes: The Secretary has amended the final priority to include revised sections (b) and (c) in order to give greater emphasis to the role of the family and community throughout the entire final priority.

Comments on Services and Supports

Comments: Twelve commenters addressed the topic of services and supports within communities, schools, and families and offered recommendations on the kinds of research and development activities that should be included in the priority: Service integration strategies for meeting the needs of children, families, and practitioners; community barriers to the distribution of needed services; impact of cultural factors on the delivery of early childhood services; collaboration among service providers, including coordination among child care providers and early childhood educators; coordination of research conducted under this priority with results of last year's OERI conference on school-linked services; the role of libraries and museums in early childhood development and education; and the role of technology in the classroom.

Discussion: The Secretary believes that quality comprehensive services provided by families, preschools, child care facilities, schools, libraries, museums, and other community resources, increase the opportunity for all children to come to school ready to learn, and that research and development activities on this topic should be a part of this center's work.

Changes: The Secretary believes that comprehensive supports and services are encompassed within revised section (b).

Absolute Priority 2: Improving Student Learning and Achievement Overview: A total of 114 letters provided comments on Priority 2. Some commenters discussed more than one topic in their correspondence.

Comments on the Integration of Priorities 2 and 3

Comments: Five commenters stated that successful education reform requires the integration of issues of curriculum, assessment and student learning. In order to ensure continuous coordinated research efforts across these topics, these commenters recommended that the Department support coordinated studies of student learning, curriculum, and assessment. Two commenters recommended that this priority be modified to address the integration of assessment practices into the curriculum.

Discussion: The Secretary believes that assessment tied to curriculum and instructional strategies can improve student learning. To ensure that assessments are aligned to instruction, the Secretary has added a new topic to the priority. In addition, the Secretary has maintained Priority 3 and modified the wording of that priority to align the development and use of assessments with curriculum and instruction.

Changes: The Secretary has added a new topic (b)(4) which reads: ''Assessment for improving teaching and learning, including the technical quality of such assessments.''

Comments on Separate Content Areas

Comments: One hundred and six commenters recommended changes in the six topics of the proposed priority. Many of the commenters recommended reorganizing the entire priority to emphasize the core academic content areas. Eighty-seven commenters recommended support for separate content centers in the areas of English/ English language arts, writing, literacy, reading, and literature. Frequently these commenters stated that English language arts are fundamental to subsequent student achievement. In addition, many of the commenters supported continuing the existing centers on writing and literature. Nineteen commenters stated that content-oriented centers would have a more direct impact on instruction and learning than the proposed achievement and assessment centers. These commenters reasoned that effective teaching and instructional strategies are content-specific and that most teachers' questions relate to problems of instruction in specific content areas. The commenters suggested that the priority be altered to include content-oriented centers such as science, math, and English.

Discussion: The Secretary agrees that instructional strategies, professional development, and assessment should all be tied to content areas. The Secretary has restructured this priority so that applicants will identify content areas and propose research and development activities in areas of student learning, instructional strategies, professional development, and assessment related to those content areas. The Secretary believes, however, that applicants should identify the content areas for which research and development will be most productive. In the application package instructions, applicants will be reminded of the requirement to specify the content areas, e.g., English, mathematics, writing, or science, on which they propose to focus their investigations.

Changes: The Secretary has revised Priority 2 (a) to read: ''Conduct research and development on improving student achievement, which must be comprised of research and development on improving learning, teaching, and assessment within a content area.''

Comments on Topic Areas

Comments: Thirteen commenters recommended that technology, the evaluation of school personnel, and family and community be included in the priority. Some of these commenters recommended requiring the center to look into how technology should be used to improve student learning and achievement. The commenters also recommended including investigation of family involvement as a means to improve student learning and achievement, and investigation of the relationship between personnel evaluation of teachers and student achievement. The Board committee recommended that work related to curriculum and instruction reflect current knowledge about cognitive development, the social context of learning, and student motivation.

Discussion: The Secretary recognizes that these and many other factors can lead to improved student achievement. Family, community, and other out-of-school factors have important impact on the improvement of student learning and achievement. In fact, the Secretary believes that many of these recommendations fall within the scope of the priority's topics and could be the subject of the center's research projects. Applicants are encouraged to consider the most effective ways to investigate both in- and out-of-school factors which influence student achievement. To emphasize the important role of technology in improving student achievement, the Secretary has explicitly included technology as one method of instruction to be investigated. To emphasize the important roles of cognitive development, the social context of learning, and student motivation, the Secretary has also explicitly included the requirement that center research on curriculum and effective instruction reflect current understanding of these factors.

Changes: The Secretary has modified topic (b)(2) to read: ''Curriculum and effective instruction, including the use of technology, which reflect current understanding of cognitive development, the social context of learning, and student motivation.''

Comments on the Scope of the Priority

Comments: Four commenters stated that the priority was too broad in its scope, making it impossible for one center to pursue high quality work in all six areas. These commenters recommended that applicants be given the option of identifying which of the topics to investigate.

Discussion: The Secretary agrees that research and development centers should concentrate their efforts on the most important teaching and learning issues. By changing the priority to focus on content areas and by reducing the number of topics, the Secretary has made it possible for applicants addressing this priority to develop a coherent, focused set of research studies. The Secretary has deleted topics that addressed school organization and school environment. Applicants are encouraged to propose work that will be sensitive to these and other issues as appropriate to their overall research plan.

Changes: The Secretary has reduced the number of topics listed in the priority from

six to four, and has limited the work to a content area or content areas. The Secretary has revised Priority 2 (a) to read: ''Conduct research and development on improving student achievement, which must be comprised of research and development on improving learning, teaching, and assessment within a content area.''

Absolute Priority 3: Improving Student Assessment and Educational Accountability

Overview: A total of 17 commenters provided comments on Priority 3.

Comments on Topic Areas

Comments: Four commenters recommended specific topics for inclusion in assessment. These commenters stated that ''core content areas'' should include geography, arts, humanities, physical education, English, mathematics, social studies, science and foreign languages. These commenters also indicated that the measurement of students' interdisciplinary knowledge and students' cognitive, social, emotional and physical development should be included in assessments.

Discussion: The Secretary believes that the identification of topics to be included in assessments should be up to the applicant. Applicants are encouraged to identify content areas which will be the focus of their research on assessment. The Secretary believes that all these topics can be addressed using the current wording.

Changes: None

Comments on Ways to Improve Assessments

Comments: Four commenters recommended various ways to improve assessments. These commenters stated that assessments should be accurate and devoid of cultural or gender bias. Commenters also stated that the center should explore the creation and use of alternative assessments. The Board committee recommended that this priority be modified to include research on the use of assessments to improve teaching and learning, as well as educational accountability. The Board further recommended that the center's work include research on the use of assessments for student placement.

Discussion: The Secretary agrees that assessments should be of high technical quality and free of bias so that assessments can be used to measure the performance of all students. The Secretary believes that the existing language in topic (b)(4) of ''validity, reliability, fairness, and content and skill coverage'' adequately covers issues of technical quality and bias. Therefore, no additional language is necessary. In addition, the Secretary believes that different types of assessments, including alternative assessments, present fruitful areas for investigation. The Secretary has added language on alternative assessments to the priority. The Secretary further believes that assessments should promote improved teaching and learning and that particular emphasis on the use of assessments for student placements is appropriate. The Secretary has added language on this area to topic (b)(1).

Changes: The Secretary has amended topic (b)(4) to read: ''The technical quality (validity, reliability, fairness, and content and skill coverage) of different types of assessments and assessment systems, including accommodations, adaptations, and alternative assessments.'' Further, the Secretary has amended topic (b)(1) to read: ''Development and use of assessments aligned with curriculum and instruction to promote improved teaching, learning, and educational accountability, including the use of assessment in student placement.''

Comments on Special Populations

Comments: Four commenters recommended that the priority explicitly include special education and bilingual populations of students in the priority's scope. These commenters also stated that school systems often exclude language minority students from educational assessment programs. The commenters said that research on assessment should consider issues related to the inclusion of students with disabilities, especially regarding test modifications and testing accommodations.

Discussion: Assessments and assessment systems should be able to reliably and validly measure the performance of all students. Therefore, the Secretary has added a new topic to the priority for research on the accommodations, adaptations, and alternative assessments which will enable all students to participate in assessment systems.

Changes: The Secretary has modified the General Absolute Priority to reinforce that all students are to be included. The revised General Absolute Priority reads: ''(e) Address issues of both equity and excellence in education for all students in its individual priority area.'' Furthermore, the Secretary has added a new topic (b)(2) to Priority 3 which reads: ''The use of accommodations, adaptations, and alternative assessments to enable all students to participate in assessment systems.'' The Secretary has also modified (b)(4) of Priority 3 to include ''including accommodations, adaptations, and alternative assessments.''

Comments on Combining Priorities 2 and 3

Comments: Five commenters recommended combining student learning and assessment into a single priority. These are the same comments discussed under Priority 2.

Discussion: As stated previously, the Secretary has modified Priority 2 to include assessment issues. Although the Secretary agrees that some assessment research and development and the improvement of teaching and learning in content areas should be closely linked, the Secretary believes that a number of issues related to assessments, assessment systems, and accountability warrant attention by a center which focuses first on assessment and secondly on content areas.

Changes: In addition to the changes in Priority 2, the Secretary amended (b)(1) of Priority 3 to read: ''The development and use of assessments aligned with curriculum and instruction to promote improved teaching, learning, and educational accountability, including the use of assessment in student placement.''

Absolute Priority 4: Meeting the Educational Needs of a Diverse Student Population

Overview: A total of 30 letters contained comments on Priority 4. The comments are grouped by topical area.

Comments on the Entire Priority

Comments: Eight commenters provided comments about Priority 4 as a whole. Four commenters voiced total support for the priority. Four commenters expressed reservations. One of the latter four stated that ample information is available on the topical area, and that the Institute should begin by collecting and analyzing existing information. Other commenters recommended that limited research dollars be allocated elsewhere and used to support broader research on improving student learning and achievement; that the work proposed for this center should be integrated with similar activities in other priorities and the funds allocated for this center be given to other centers; that funds should not be used to support a center based on a diverse student population; and that the topics covered should be more limited given the center's likely funding.

Discussion: The Secretary believes this topical area is essential, and that a separate center devoted to this topic is warranted even given the reduction in the total number of centers to be funded. However, the Secretary agrees with the comment that it may be difficult for applicants to adequately address all of the topics in their proposals.

Changes: The Secretary has modified (b) to read ''Include in its work research or development related to at least two of the following topics:''.

Comments on Student Populations

Comments: Nine commenters recommended that the priority identify more specifically the population or populations of students included. Seven of these comments were related to students with disabilities. One expressed concern that the ''diverse student'' designation in this priority would serve as a catch-all for ''other'' students, including students with disabilities, rather than an assurance of the inclusion of all students in each center's efforts. The comments included: Add ''disability'' to the categories of risk; broaden the definition of risk to include students with behavioral and psychological problems; and modify the priority to add a focus on students with disabilities or to set aside a portion of funding to support research and development dealing specifically with the needs of special education students. Two commenters called for inclusion of additional groups or aiming efforts at specific categories of at-risk students, namely Pacific Island students and at-risk students with limited vocational job options. One commenter supported the inclusion of limited-English proficient students. One commenter stated that the priority should address the broad range of dimensions of student diversity.

Discussion: The statute authorizing the National Institute on the Education of At-Risk Students defines an at-risk student as ''a student who, because of limited English proficiency, poverty, race, geographic

location, or economic disadvantage, faces a greater risk of low educational achievement or reduced academic expectations.'' The Institute is limited to funding research which meets the purposes of the statute.

Changes: The Secretary has modified the priority to include the exact wording of the statute.

Comments on Agencies

Comments: One commenter recommended that (b)(5) (now (b)(4)) be amended to add ''tribal'' to the list of agencies.

Discussion: The Secretary will modified the priority to add the words ''tribal government.''

Changes: The Secretary has modified the language of Priority 4 by adding ''tribal government'' to the list in (b)(4).

Comments on Topic Areas

Comments: Sixteen commenters provided comments on the proposed priority's five topics for research and development activities. One commenter stated that student diversity is so basic to our nation's schools that the topic should be incorporated into the other proposed priorities. Another stated that the most pressing need of diverse students is effective literacy lessons. Four commenters made recommendations concerning (b)(2), as follows: Professional development should also include the preparation of teachers and other school personnel, and professional development is so vital that an additional priority on this topic should be added; support for highlighting professional development in Priority 4 and a recommendation that it be similarly highlighted in the other priorities; a statement that professional development research should ensure that appropriately certified school personnel are prepared to work effectively with American Indian students; a statement that methods of assessing teachers of at-risk students should be examined; and a statement that issues related to potential shortages of minority teachers should be investigated. Similarly, the Board committee recommended that topic (b)(2) be modified to include training activities for families and communities, as well as professional development for educators. Seven commenters expressed concerns regarding the scope of and language contained in (b)(3), including recommendations for amending the language to include libraries and museums as examples of out-of-school experiences, adding ''* * * and become responsible citizens'' to the language, and clarifying the phrases ''structuring out of school experiences'' and ''learning to high standards,'' subsuming (b)(3) under (b)(4), or deleting (b)(3) altogether because it is not as crucial as the other topics. Three commenters supported (b)(4). Two letters recommended stressing the topic of (b)(4) among all centers and another recommended a number of studies to enhance knowledge of risk and resiliency factors in children and to generate policy recommendations. Two commenters specifically addressed the needs of language minority students under (b)(5). One stressed the importance to this population of English/language arts skills; the second commenter suggested requiring basic research on the process of second language acquisition and in-school learning experiences that enhance English proficiency and academic excellence.

Discussion: The Secretary recognizes the merit of the recommendations regarding in-school learning experiences and has modified (b)(1) to emphasize instructional strategies. The Secretary believes that the language in (b)(2) is sufficiently inclusive to provide for the population of teachers and other school personnel. However, the Secretary has revised (b)(2) to clarify that training activities for families and communities are included within the scope of the topic. The Secretary recognizes that there is merit to including libraries and museums as examples of out-of-school experiences. However, the Secretary does not wish to imply partiality toward particular types of learning experiences, preferring instead to encourage applicants to identify and justify the promising experiences that reflect the particular design of their proposed research and development activities. The Secretary has considered rewording the phrase ''structuring out-of-school experiences''. The Secretary believes that existing knowledge of effective practices in this area is significantly limited as to warrant a broader, more inclusive approach rather than a more narrow focus. The Secretary expects that applicants' concepts of out-of-school experiences will contribute to the merits of their proposals. The Secretary further believes that there is significant potential for identifying promising out-of-school practices which are not mutually exclusive of family and community-based experiences. Thus, the Secretary concurs with the suggestion that (b)(3) be subsumed under (b)(4).

Changes: Section (b)(1) has been modified to read ''Instructional strategies that recognize and build on the strengths of students from diverse backgrounds to help all students to achieve to high academic standards.'' Section (b)(2) has been modified to include families and communities. Sections (b)(3) and (b)(4) of the priority have been modified to read: ''(b)(3) Working with families and community-based organizations, through such means as structuring out-of-school experiences as well as providing support for school-based programs, to help students at risk of educational failure achieve to high standards.''

Absolute Priority 5: Increasing the Effectiveness of State and Local Education Reform Efforts

Overview: In response to the Secretary's invitation in the notice of proposed priorities, 76 respondents submitted written comments regarding Absolute Priority 5: Increasing the Effectiveness of State and Local Education Reform Efforts. Some commenters discussed more than one topic in their correspondence.

General Comments: Sixteen commenters supported the focus of the proposed priority. Commenters noted the importance and usefulness of such research in the past and the ongoing need for research in the topic areas listed in the proposed priority. Several commenters provided specific references to useful research in this field. Five commenters expressed disapproval of the proposed priority. One warned against excessive federal intervention in education affairs. Another argued that all the priorities should be directly related to the Goals 2000 legislation. The third characterized the current list of topics under Priority 5 as an unfocused laundry list. The fourth argued that the priority focused on research that had already been done and that academics would continue to do this type of research even in the absence of a center on this topic. The fifth suggested that the proposed research should be conducted in other centers.

Discussion: The Secretary does not believe that the National Research and Development Centers Program represents excessive federal intervention into education affairs. The purpose of these centers is to provide information that will be helpful to educators as they carry out their programs. Because these centers are not intended to promote any particular predetermined reform strategy, the Secretary does not believe the priorities should be directly related to the Goals 2000 legislation. The Secretary has restructured the topics under this priority so they are more coherent rather than giving the appearance of a laundry list. The nonbinding mission guidance will also explain how the topics fit into an integrated whole. The Secretary believes that current reforms are more coherent than they have been in the past and the focus of this priority—the relationship between increased learning by all students and local and school level strategies for reform, state and local policies, finance strategies and governance arrangements—is an important advancement in both research and practice. Also, the Secretary believes that while some research on this topic will be conducted by independent academicians, the important work to be conducted by a center on this topic will not be carried out elsewhere. The Secretary believes that the proposed work is sufficiently distinct to be conducted at a separate center, but that the work of this center should be closely coordinated with work in other centers related to K–12 student achievement. Therefore, the substantive focus of the proposed priority has not be changed.

Changes: The language of the priority has been revised so the topics are more coherent.

Comments on Local and School Level Factors

Comments: Ten respondents commented about the importance of local and school level factors. Some of these emphasized the importance of the impact of these factors on student learning. Generally the comments noted the importance of understanding how local and school factors interact to support desired changes and how these factors interact with state and local policies. In addition, the Board committee recommended that topic (b)(1) be modified to emphasize the importance of supportive and secure learning environments as a target of local or school level reforms.

Discussion: The Secretary agrees that local and school level factors that influence student learning are important and should be studied by this center. The Secretary further

agrees that supportive and secure learning environments are particularly important concerns at the local and school levels.

Changes: The priority has been revised to emphasize the importance of research on local and school level factors that influence student learning with particular emphasis on supportive and secure learning environments.

Comments Regarding Student Standards

Comments: Seven respondents commented on the topic of student standards. Most emphasized the importance of the topic. One recommended that work on this topic be coordinated with Title 1 evaluations and with the work the National Science Foundation is sponsoring on standards-based reform. Two argued that such work must be content-based.

Discussion: The Secretary agrees that student standards are an important topic for investigation. The Secretary will coordinate work on this topic with the evaluation of Title 1 and with the work being supported by the National Science Foundation. Applicants will be free to propose content-based approaches to this topic. The center is encouraged to coordinate its work, including the work on student standards, with other related activities in the field.

Changes: The priority has been amended to add as a new topic (b)(2), ''State and local finance strategies that support improved learning by all students including aligning elements of the education system to achieve challenging student standards and providing incentives for reform.''

Comments Regarding Finance Issues

Comments: Six commenters noted the importance of finance issues. One recommended a center on this topic alone. Another called explicitly for studies of the cost-effectiveness of alternative strategies. Several commenters recommended research on finance strategies that are integrated with other elements of reform.

Discussion: The Secretary agrees that finance issues are important and that the discussion of them in the priority should be expanded.

Changes: The priority has been amended to elaborate upon the finance topic. The equitable distribution of programs and services and the productive allocation of resources are included as areas that must be covered by the center's work.

Comments Regarding Family, Community, School Relationships

Comments: Six commenters noted the importance of family, community and school relationships. One recommended supporting a Center on Families, Communities, Schools and Children's Learning as a second center in the Governance Institute, or, as an alternative, research on strengthening the connections between schools, families, and communities. Two commenters recommended adding parents and families to the topic in the proposed priority focused on examining community-school relationships. In addition, the Board committee recommended adding the word ''partnerships'' before ''collaboration'' in (b)(1) to emphasize that families, communities and schools should work together as closely as possible.

Discussion: The Secretary believes that budget restrictions paired with the legislative mandate that no center be funded at less than $1.5 million per year preclude the possibility of funding a second center under the Governance Institute. However, the Secretary agrees that the relationship between schools and families and the community is an important factor related to student learning. The Secretary believes that both productive partnerships and productive collaborations among communities, families and schools merit investigation as local strategies to improve elementary and secondary education.

Changes: The priority has been revised to include enhancing productive partnerships and collaborations among communities, families and schools as a topic area that must be addressed by the center.

Comments Regarding the Format of Topics

Comments: Five commenters were concerned about the format of the topics under the priority. Two suggested that the priority appeared to be promoting a particular view of reform. Another suggested that the topics were too process-oriented. Another commenter suggested that all topics should focus on increasing student achievement. The fifth called for a more integrated and synthesized statement.

Discussion: The Secretary does not believe that this priority should promote any particular reform strategy. Rather, alternative reform strategies should be the focus of the research supported under this priority. The Secretary agrees that the focus of the work sponsored under this priority should be on the relationship between alternative approaches and student learning, not on processes *per se.* The Secretary also agrees that the statement of the individual topics within the priority should be as integrated and synthesized as possible.

Changes: The priority has been revised to clarify that the topics are not promoting a particular approach to education reform, are not focusing on processes *per se,* and are aimed at investigating the relationship between alternative approaches and student learning. The priority has been reformatted to be more coherent.

Comments About Adding Topics

Comments: Fifty-two commenters recommended adding topics to the proposed priority. Examples of research areas proposed for inclusion were the general areas of education governance and teacher professionalization, and the topic areas of building organizational capacity, alternative models of schooling, family-community-school relationships, collaboration between schools and postsecondary institutions, and the integration of services for children and youth. Specific research topics recommended included the federal role in education, policies supporting the use of technology, especially for students with special needs, the role of libraries and museums in students' learning, and addressing cultural differences when setting education policies.

Discussion: The Secretary agrees that education governance is an important general area that should be included in the priority. Also, in recognition of the number of comments on professionalization of education personnel, the Secretary has decided to modify the priority to include a focus on licensing of teachers and other education professionals. The Secretary also believes that the general topics recommended are important and should be considered by applicants as candidates for study. The Secretary recognizes that there is merit to many of the specific topics recommended for inclusion. In fact, the Secretary believes that many of these recommendations fall within the scope of the priority's topics and could be the subject of the center's research projects.

Changes: The priority has been revised to include the general topic area of education governance. In addition, section (b)(2) has been amended to read: ''State and local policies that support improved learning by all students including aligning elements of the education system to achieve challenging student standards, enhancing licensing systems for teachers and other education professionals, and providing incentives for reform.''

Absolute Priority 6: Improving Postsecondary Education

Overview: A total of 22 letters provided comments on Priority 6. Some commenters addressed more than one topic.

Comments on Scope and Relationship of Priority 6 to Priority 7

Comments: Seven commenters were concerned with relationships and distinctions between priorities 6 and 7. Two recommended combining the two priorities, while others recommended various ways of ensuring that the work is coordinated or that the scope of each priority be clarified to prevent overlap. Several commented on the broad range of issues included in Priority 6, while others added issues that should be emphasized.

Discussion: The Secretary agrees that distinctions between priorities 6 and 7 need to be clarified, but does not agree that a single center can address the complex issues in both postsecondary education and adult literacy and learning. The Secretary agrees that it is important for the centers to coordinate work on issues of mutual interest.

Changes: The title of Priority 6 has been changed to: ''Improving Postsecondary Education'' to distinguish its focus from priority 7. Section (a) is changed to: ''Conduct research and development on improving quality, productivity and outcomes of postsecondary education.'' Applicants will be permitted to select three or more topics for research from among those listed. Non-binding mission guidance will suggest ways of coordinating the work of the two centers.

Comments on Emphasizing a Continuous View of Education

Comments: Three commenters argued for a broader view of postsecondary students and a more continuous view of education, consistent with the theme of lifelong learning. Three advocated inclusion of community colleges in the work on

postsecondary education. Eight commenters recommended linking research on postsecondary education with various other reform issues including: Teacher education; links to communities; promotion of private/public partnerships in service delivery; and employment opportunities for high-risk students and for the non-college bound. Two commenters advocated a K–16 approach to education reform.

Discussion: The Secretary agrees that this priority should reflect a continuous view of education, including an emphasis on K–16 approaches to education improvement and teacher education. The Secretary encourages the inclusion of various groups of participants and institutions, including community colleges.

Changes: The Secretary has omitted (b)(5): ''Articulation between secondary and postsecondary education,'' and has amended (b)(1) to read: ''Transitions from school to work, or to further education, for secondary and postsecondary students, including, but not limited to, development of effective K–16 systems.''

Comments on Faculty Development

Comments: Three commenters recommended inclusion of research on faculty development, especially for improving student achievement. Others recommended a focus on professional development, including interprofessional development for educators at various academic levels. The Board committee recommended adding teacher education as an express part of this priority in order to emphasize the need for research and development related to the professional development of K–12 teachers.

Discussion: The Secretary agrees that faculty development is an important aspect of improving the quality of postsecondary education. The Secretary also agrees that postsecondary institutions are critical in improving the preparation of K–12 educators.

Changes: Section (b)(3) will include a new topic: ''Approaches to professional development geared to improving postsecondary instruction and student learning, including the preparation of K–12 educators.''

Comments on Institutional Productivity, Faculty Rewards, and Finance

Comments: Three commenters advocated various aspects of improving the management and productivity of postsecondary institutions, including a focus on faculty productivity and reward structures.

Discussion: The Secretary agrees that these are important issues and believes that they are already included in the statement on ''Containing costs and improving the productivity and accountability of postsecondary institutions.''

Changes: None.

Comments on Emphasizing Library Services

Comments: Three commenters recommended an emphasis on research on library services.

Discussion: While the Secretary agrees that libraries are important aspects of postsecondary education, he does not believe that this topic is appropriate as a separate research topic for this priority. However, the Secretary has included the use of libraries in (b)(2) of Priority 7.

Changes: None.

Absolute Priority 7: Improving Adult Learning and Literacy Overview: A total of 21 letters provided comments on Priority 7. Some commenters discussed more than one topic in their correspondence.

Comments on Organizational Strategies, Methods and Delivery Systems

Comments: Four commenters recommended that greater attention be paid to developing effective delivery systems through better organizational strategies, and four others asked that libraries be specified within the research activities.

Discussion: The Secretary agrees that greater attention be paid to developing effective delivery systems through better organizational strategies, including the use of libraries.

Changes: Section (b)(2) has been amended to read: ''Effective strategies and technology for providers, including libraries, community organizations, and family literacy programs, * * *''

Comments on Workplace Skills

Comments: Two commenters asked that more work be done in developing skills for use in the workplace and two asked that the research on workplace skills be coordinated with that of the Institute on Postsecondary Education so as to differentiate the basic skills from the levels and kinds of skills generally considered the province of postsecondary institutions' preparation of students for work. The Board committee recommended deleting the word ''cognitive'' from (b)(1) and replacing it with the phrase ''linguistic, quantitative and reasoning'' to clarify the myriad of skills to which this Center's research and development might pertain. The Board also recommended that an explicit reference to computer skills be added.

Discussion: The Secretary agrees that adult learning and literacy programs can provide a variety of skills useful in the workforce, including computer literacy, that postsecondary institutions can generally provide skills that are useful for higher level workforce preparedness, and that research on all these skills will profit from collaborative work.

Changes: Section (a) has been amended to read: ''Conduct research and development on improving adult learning and literacy through delivery methods and systems other than postsecondary institutions, including the skills needed for work and responsible citizenship.'' In addition, section (b)(1) has been amended to read: ''Adult acquisition of knowledge and development of linguistic, quantitative, and reasoning skills, including adult acquisition of second language skills and computer skills.''

Comments on Instructional Considerations

Comments: Two commenters wanted specific mention of family literacy, and two emphasized the importance of instructional strategies and materials. The Board committee recommended adding a specific reference to the use of technology for professional development in order to encourage further use of technology toward the goals of this priority.

Discussion: The Secretary agrees that family literacy is a vital part of the provision of literacy and related instruction and services. The Secretary believes that the importance of instructional strategies and materials is already apparent in the priority in sections (b) (2), (3) and (4).

Changes: Section (b)(2)has been amended to read: ''Effective strategies and technology for providers, including libraries, community organizations, and family literacy programs,* * *''. Section (b)(3) has been revised to include a specific reference to the use of technology for professional development.

Comments on Special Populations

Comments: Two commenters recommended the specific mention of target populations, including those with learning disabilities, learning disorders and other special needs, and one recommended much greater attention to diversity in general and English as a second language programs and instruction in particular.

Discussion: The Secretary agrees that much more sophisticated identification methods have shown us that an increasingly large number of adults have special learning needs. The Secretary further agrees that burgeoning numbers of adults needing English as second language instruction are asking for programs.

Changes: Section (b)(2) has been amended to read: ''Effective strategies and technology for providers, including libraries, community organizations, and family literacy programs, to improve adult learning and literacy for all adult populations, including adults with special needs and those needing English as second language instruction.'' In addition, section (b)(3) has been amended to read: ''Effective methods, including use of technology, for professional development of instructional staff for adult education and literacy programs, including English as second language programs and programs for adults with special needs.''

Comments on Research Methodology

Comments: Two commenters called for greater practitioner involvement in the design and conduct of research.

Discussion: The Secretary agrees that such participation would be a valuable ingredient in carrying out the research under this Priority. The Secretary encourages practitioner involvement, but does not believe this should be mandated.

Changes: None.

Post-Award Requirements Comments

Comments: One comment was received on the post-award requirements. This commenter recommended dropping the five percent set-aside for supporting activities that fall within the center's priority area and are designed and mutually agreed to by the center and OERI. The commenter stated a belief that the set-aside modifies the intention of the appropriators by reducing the center awards by five percent to provide additional discretionary funds for the agency

not acknowledged in the formal appropriation process. The commenter also suggested that the word ''synthesizes'' in paragraph (d) has a technical meaning that may not be appropriate in the context of post-award requirements, and suggests using ''document'' instead, as well as adding ''actual impact'' instead of ''potential impact.''

Discussion: The Secretary does not believe that a 5 percent set-aside for the described activities is unreasonable or an attempt to circumvent the appropriations process. The five percent set-aside will be used by the centers for activities which enable them to work more closely with each other. The Secretary agrees that synthesis has a technical meaning and believes that it is an appropriate activity for the centers. The Secretary also believes that it is appropriate for centers to describe potential impact as well as observable impact to date.

Changes: None.

[FR Doc. 95–22873 Filed 9–13–95; 8:45 am]

BILLING CODE 4000–01–P

[CFDA Nos.: 84.305 A and B, 84.306A, 84.307A, 84.308A, and 84.309 A and B]

Office of Educational Research and Improvement (OERI)—Education Research and Development Centers Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1996

Purpose of Program: To support seven national research and development centers that would carry out sustained research and development to address nationally significant problems and issues in education.

Eligible Applicants: The following are eligible for a new award under this program: institutions of higher education, institutions of higher education in consort with public agencies or private nonprofit organizations, and interstate agencies established by compact that operate subsidiary bodies established to conduct postsecondary educational research and development.

Deadline for Transmittal of Applications: December 15, 1995.

Applications Available: September 29, 1995.

Estimated Available Funds: The seven centers will be awarded as cooperative agreements. In fiscal year 1996, $21,350,000 is expected to be available for the first year of funding for the seven national research and development centers. The following table indicates the estimated funding levels over the five-year project period. The funding levels for years 1 through 5 are estimates. Actual funding will depend upon the availability of funds and needs as reflected in the approved application.

Priority area	Fiscal year				
	1996	1997	1998	1999	2000
Enhancing young children's development and learning	2,750,000	2,750,000	2,750,000	2,750,000	2,750,000
Improving student learning and achievement[1]	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000
Improving student assessment and educational accountability	2,800,000	2,800,000	2,800,000	2,800,000	2,800,000
Meeting the educational needs of a diverse student population	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000
Increasing the effectiveness of state and local education reform efforts	2,800,000	2,800,000	2,800,000	2,800,000	2,800,000
Improving postsecondary education	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000
Improving adult learning and literacy	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000

[1] Multiple awards may be made.

Estimated Number of Awards: 7.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR Part 700, as published elsewhere in this issue of the **Federal Register**.

Priority

The absolute priorities in the notice of final priorities and post-award requirements for this program, as published elsewhere in this issue of the **Federal Register** apply to this competition.

Selection Criteria

In evaluating applications for grants under this program, the Secretary uses the selection criteria in 20 U.S.C. 6031(c)(3)(E) and 34 CFR 700.30.

In accordance with 34 CFR 700.30 (b) and (c), the Secretary has selected evaluation criteria from among those established in 34 CFR 700.30(e) and has assigned weights to each selected criterion.

In addition, the legislation authorizing the Research and Development Centers program requires all applications for grants to be evaluated according to criteria specified in 20 U.S.C. 6031(c)(3)(E) (i)–(vi). The Secretary has incorporated the statutory selection criteria into the criteria established under 34 CFR 700.30. The statutory criteria are: (3)(B)(iii), (4)(B)(iv), (4)(B)(v), (5)(B)(iv), (5)(B)(v), and (5)(B)(vi).

The Secretary announces the following evaluation criteria and assigned weights for this competition:

(1) *National Significance* (30 points)

(A) The Secretary considers the national significance of the proposed project.

(B) In determining the national significance of the proposed project, the Secretary considers the following factors:

(i) The importance of the problem or issue to be addressed.

(ii) The potential contribution of the project to increased knowledge or understanding of educational problems, issues, or effective practice.

(iii) The potential contribution of the project to the development and advancement of theory and knowledge in the field of study.

(iv) The nature of the products (such as information, materials, processes, or techniques) likely to result from the project and the potential for their effective use in a variety of other settings.

(2) *Quality of the Project Design* (30 points)

(A) The Secretary considers the quality of the design of the proposed project.

(B) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) Whether there is a conceptual framework underlying the proposed activities and the quality of that framework.

(ii) Whether the proposed activities constitute a coherent, sustained program

of research and development in the field, including a substantial addition to an ongoing line of inquiry.

(iii) The extent to which the research design includes a thorough, high-quality review of the relevant literature, a high-quality plan for research activities, and use of appropriate theoretical and methodological tools, including those of a variety of disciplines, where appropriate.

(iv) The quality of the plan for evaluating the functioning and impact of the project, including the objectivity of the evaluation and the extent to which the methods of evaluation are appropriate to the goals, objectives, and outcomes of the project.

(3) *Quality and Potential Contributions of Personnel* (20 points)

(A) The Secretary considers the quality and potential contributions of personnel for the proposed project.

(B) In determining the quality and potential contributions of personnel for the proposed project, the Secretary considers the following factors:

(i) The qualifications, including training and experience, of the project director or principal investigator.

(ii) The qualifications, including training and experience, of key project personnel.

(iii) Whether the applicant has assembled a group of high quality researchers sufficient to achieve the mission of the center.

(4) *Adequacy of Resources* (10 points)

(A) The Secretary considers the adequacy of resources for the proposed project.

(B) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support from the lead applicant organization.

(ii) The relevance and commitment of each partner in the project to the implementation and success of the project.

(iii) Whether the costs are reasonable in relation to the objectives, design, and potential significance of the project.

(iv) Whether the proposed organizational structure and arrangements will facilitate achievement of the mission of the center.

(v) Whether the directors and support staff will devote a majority of their time to the activities of the center.

(5) *Quality of the Management Plan* (10 points)

(A) The Secretary considers the quality of the management plan of the proposed project.

(B) In determining the quality of the management plan of a proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the project, including the specifications of staff responsibility, timelines, and benchmarks for accomplishing project tasks.

(ii) The adequacy of plans for ensuring high-quality products and services.

(iii) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the project, including those of parents and teachers, where appropriate.

(iv) Whether there is a substantial staff commitment to the work of the center.

(v) The contributions of primary researchers (other than researchers at the proposed center) and the appropriateness of such researcher's experiences and expertise in the context of the proposed center activities, and the adequacy of such primary researcher's time and commitment to achievement of the mission of the center.

(vi) The manner in which the results of education research will be disseminated for further use, including how the center will work with the Office of Reform Assistance and Dissemination.

For Applications or Information Contact: Either—

1. Jacqueline Jenkins, U.S. Department of Education, 555 New Jersey Avenue, NW, Room 510G, Washington, DC 20208–5573. Telephone: (202) 219–2232. Internet: Jackie__ Jenkins @ed.gov or;

2. Judith Anderson, U.S. Department of Education, 555 New Jersey Avenue, NW, Room 611B, Washington, DC 20208–5573. Telephone: (202) 219–2086. Internet: Judith__ Anderson @ed.gov.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices or discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Servers at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: Pub. L. 103–227, Title IX.

Dated: August 31, 1995.

Sharon Porter Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 95–22874 Filed 9–13–95; 8:45 am]

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Federal Register

Thursday
September 14, 1995

Part IV

Department of Education

Office of Educational Research and Improvement; National Institutes' Field-Initiated Studies Grant Program; Notice

DEPARTMENT OF EDUCATION

Office of Educational Research and Improvement; National Institutes' Field-Initiated Studies Grant Program

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year 1996.

SUMMARY: The Secretary invites applications for new awards for fiscal year 1996 and announces closing dates for the transmittal of applications under the Field-Initiated Studies Grant Program supported by five new National Institutes: Student Achievement, Curriculum, and Assessment; Education of At-Risk Students; Educational Governance, Finance, Policymaking, and Management; Early Childhood Development and Education; and Postsecondary Education, Libraries, and Lifelong Learning. The Field-Initiated Studies Grant Program will support educational research projects related to the missions of the Institutes.

DATES: The closing dates for transmitting applications under this notice are listed in Section I of this notice.

ADDRESSES: *For Applications or Further Information:* The address and telephone number for obtaining applications for, or further information about, individual Institutes are in Section II of this notice.

For Users of TDD or FIRS: Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

For Electronic Access to Information: Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

SUPPLEMENTARY INFORMATION: The Educational Research, Development, Dissemination, and Improvement Act of 1994 (''Act'') (20 U.S.C. 6002 *et seq.*) established five National research institutes within the Department. Each of the Institutes will support a Field-Initiated Studies (FIS) Grant program to fund field-initiated research projects on topics related to the mission of the relevant Institute. The application announcement for each FIS Grant program, in Section II of this notice, contains a summary of the mission of each of the five Institutes. Section 931 of the Act (20 U.S.C. 6031) contains a complete description of the mission of each Institute.

The Secretary has established invitational priorities for each of the FIS Grant program competitions. The invitational priorities provide examples of research projects that the Secretary believes would enhance the work of each Institute. The invitational priorities are examples only and applicants may propose education research projects on any topic within the mission of the relevant Institute.

The Field-Initiated Studies Grant program provides assistance to institutions of higher education, public and private organizations, institutions, agencies, and individuals for educational research and demonstration to improve American education. The Act defines ''educational research'' to include basic and applied research, inquiry with the purpose of applying tested knowledge gained to specific educational settings and problems, development, planning, surveys, assessments, evaluations, investigations, experiments, and demonstrations in the field of education and other fields relating to education (20 U.S.C. 6011(l)(6)). The Act also defines the term ''field-initiated research'' to mean education research in which topics and methods of study are generated by investigators, including teachers and other practitioners (20 U.S.C. 6011(l)(7)).

Program Information Shared by All National Institutes

Eligible Applicants: Eligible applicants are institutions of higher education, public and private organizations, institutions, agencies, and individuals, or a consortium thereof.

Length of Application: The application narrative may not exceed 25 double-spaced, 8½ x 11″ pages (on one side only). The applicant must use a non-proportional 12-point or larger font (i.e., no more than 10 characters to the inch). The entire application package, including all forms, appendices, and attachments may not exceed 45 pages. All pages must have at least 1-inch margins on all sides. Pursuant to this Department's authority to establish instructions governing the form of application, applications which do not follow these specifications will not be considered for funding.

Project Periods: Research projects may extend from one to three years.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85 and 86 (part 86 applies to IHEs only); and (b) The regulations in 34 CFR part 700 (Standards for the Conduct and Evaluation of Activities Carried Out by OERI), as published elsewhere in this issue of the **Federal Register**.

Applicable Evaluation Criteria: In accordance with 34 CFR 700.30, the Secretary applies the following evaluation criteria to the Field-Initiated Studies Grant program competitions.

(1) *National Significance* (30 points). (i) The Secretary considers the national significance of the proposed project.

(ii) In determining the national significance of the proposed project, the Secretary considers the following factors—

(A) The importance of the problem or issue to be addressed.

(B) The potential contribution of the project to increased knowledge or understanding of educational problems, issues, or effective strategies.

(C) The potential contribution of the project to the development and advancement of theory and knowledge in the field of study.

(2) *Quality of the Project Design* (30 points). (i) The Secretary considers the quality of the design of the proposed project.

(ii) In determining the quality of the design of the proposed project, the Secretary considers the following factors—

(A) Whether the goals, objectives, and outcomes to be achieved by the project are clearly specified and measurable.

(B) Whether a specific research design has been proposed, and the quality and appropriateness of that design, including the scientific rigor of the studies involved.

(3) *Quality and potential contributions of personnel* (15 points). (i) The Secretary considers the quality and potential contributions of personnel for the proposed project.

(ii) In determining the quality and potential contributions of personnel for the proposed project, the Secretary considers the following factors—

(A) The qualifications, including training and experience, of the project director or principal investigator.

(B) The qualifications, including training and experience, of key project personnel.

(4) *Adequacy of Resources* (15 points). (i) The Secretary considers the adequacy of resources for the proposed project.

(ii) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors—

(A) Whether the budget is adequate to support the project; and

(B) Whether the costs are reasonable in relation to the objectives, design, and potential significance of the project.

(5) *Quality of the Management Plan* (10 points). (i) The Secretary considers the quality of the management plan of the proposed project.

(ii) In determining the quality of the management plan of a proposed project, the Secretary considers the following factors—

(A) The adequacy of the management plan to achieve the objectives of the project, including the specification of staff responsibility, timelines, and benchmarks for accomplishing project tasks.

(B) Whether time commitments of the project director or principal investigator and other key personnel are appropriate and adequate to meet project objectives.

(C) How the applicant will ensure that persons who are otherwise eligible to participate in the project are selected without regard to race, color, national origin, gender, age, or disability.

Organization of Notice

This notice contains two sections. *Section I* includes a chart listing the common closing date, and other pertinent information about each competition covered by this notice. *Section II* consists of the individual application announcement for each competition under the Field-Initiated Studies Grant program.

SECTION I.—INSTITUTES AND FIS GRANT CLOSING DATES

Title of program and CFDA number	Applications available	Application deadline date	Tentative award date	Estimated available funds	Estimated range of awards	Estimated average size of annual awards	Estimated number of awards
National Institute on Student Achievement, Curriculum, and Assessment FIS Grant Program (84.305F)	10/13/95	01/05/96	06/28/96	$2,580,000	$100,000–300,000	$250,000	10
National Institute on the Education of At-Risk Students FIS Grant Program (84.306F)	10/13/95	01/05/96	06/28/96	2,580,000	100,000–300,000	250,000	10
National Institute on Early Childhood Development and Education FIS Grant Program (84.307F)	10/13/95	01/05/96	06/28/96	1,290,000	100,000–250,000	200,000	6
National Institute on Educational Governance, Finance, Policymaking, and Management FIS Grant Program (84.308F)	10/13/95	01/05/96	06/28/96	860,000	50,000–300,000	150,000	6
National Institute on Postsecondary Education, Libraries, and Lifelong Learning FIS Grant Program (84.309F)	10/13/95	01/05/96	06/28/96	1,290,000	100,000–400,000	250,000	5

Section II—Application Notices

CFDA No. 84.305F—The National Institute on Student Achievement, Curriculum, and Assessment, Field-Initiated Studies Program

Purpose of Program: The purpose of the National Institute on Student Achievement, Curriculum, and Assessment is to provide leadership to improve student achievement in core content areas. The institute is to support research and development to identify and develop innovative and exemplary methods to improve student knowledge at all levels in the core content areas.

Priorities: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1. Methods and activities to reduce and prevent violence in schools.

Invitational Priority 2. Effective use of technology to improve learning, teaching, and testing.

Invitational Priority 3. Methods of delivering teacher education and inservice professional training that lead to improved student achievement.

For Applications or Information Contact: Clara Lawson-Holmes, National Institute on Student Achievement, Curriculum, and Assessment, U.S. Department of Education, 555 New Jersey Avenue, NW, Room 510, Washington, DC 20208–5573. Telephone (202) 219–2079, or clawson@INET.ED.GOV.

CFDA No. 84.306F—The National Institute on the Education of At-Risk Students, Field-Initiated Studies Program

Purpose of Program: The purpose of the National Institute for the Education of At-Risk Students is to expand research-based knowledge and strategies that will promote excellence and equity in the education of children and youth placed at risk of educational failure because of limited-English proficiency, poverty, race or ethnicity, or geographic location. The Institute will carry out a program of research and development to identify and assist others to replicate and adapt programs and models which promote greater achievement and educational success by at-risk students, including innovative methods of instruction, student assessments, professional development, and curricula.

Priorities: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1. Increasing academic achievement and reducing the dropout rates of American Indian and Alaska Native students.

Invitational Priority 2. Improving the success of students at-risk through coordinated school, community, and family programs, including programs designed to increase learning time.

Invitational Priority 3. Improving student outcomes in schools where a majority of students live in poverty.

For Applications or Information Contact: Beth Fine, National Institute on the Education of At-Risk Students, U.S. Department of Education, 555 New Jersey Avenue, NW, Room 610, Washington, DC 20208–5521. Telephone (202) 219–2239, or bfine@INET.ED.GOV.

CFDA 84.307F—The National Institute on Early Childhood Development and Education, Field Initiated Studies Program

Purpose of Program: The purpose of the National Institute on Early Childhood Development and Education is to identify, develop, evaluate and assist others to replicate methods and approaches that improve early childhood development and education. The Institute is to carry out a program of research and development in areas such as the social and educational development of young children; factors relating to readiness, including prenatal care, health services, and nutrition; family literacy; the role of parental involvement in their children's learning; effective learning methods and curriculum for young children; methods for integrating learning in settings other than the classroom; the impact of outside influences, such as television, violence, and drug abuse; and instruction that considers the cultural environment of children.

Priorities: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1. The development of pre-reading, reading, and family literacy skills.

Invitational Priority 2. Improving long-term outcomes for teenage parents and young children.

Invitational Priority 3. Developing programs that use technology to involve low-income families in the teaching of basic skills to young children.

Invitational Priority 4. Developing methods that enable early childhood caregivers to identify behavior problems early in young children and effectively use interdisciplinary intervention strategies that will replace those problem behaviors with positive behaviors.

Invitational Priority 5. Determining the effectiveness of programs or curricula that address the development of motor, language, speech and other skills needed for young children to be successful in a variety of settings.

For Applications or Information Contact: Joe Caliguro, National Institute on Early Childhood Development and Education, U.S. Department of Education, 555 New Jersey Avenue, NW, Washington, DC 20208–5520 Telephone (202) 219–1935.

CFDA 84.308F—The National Institute on Educational Governance, Finance, Policy-Making, and Management, Field Initiated Studies Program

Purpose of Program: The purpose of the National Institute on Educational Governance, Finance, Policy-Making, and Management is to improve student achievement through restructuring and reform of the education system. The Institute is to carry out a program of research and development to provide a sound basis from which to identify, develop, and evaluate approaches in elementary and secondary education governance, finance, policy-making, and management at the State, local, tribal, school building, and classroom level which promise to improve educational equity and excellence.

Priorities: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1. The development and coordination, integration, and coherence of governance, finance, policymaking and management strategies that promote and sustain education innovations and raise levels of learning for all students.

Invitational Priority 2. The costs and effects of particularly promising approaches for improving the learning of different groups of students in different settings.

Invitational Priority 3. The impact on student learning of open enrollment programs, public school choice, magnet schools and other systems through which parents may select the public schools and educational programs in which their children enroll.

Invitational Priority 4. The impact on student learning of improving the context in which learning occurs through professional development; participatory governance structures; caring, concerned, and disciplined learning environments; and other innovative or improved ways to enhance learning.

For Applications or Information Contact: Elizabeth DeBra or Edward Fuentes, National Institute on Educational Governance, Finance, Policy-Making, and Management, U.S. Department of Education, 555 New Jersey Avenue, NW, Washington, DC 20208–5510. Telephone (202) 219–2021 or-2032.

CFDA 84.309F—The National Institute on Postsecondary Education, Libraries and Lifelong Learning, Field Initiated Studies Program

Purpose of Program: The purpose of the National Institute on Postsecondary Education, Libraries and Lifelong Learning is to improve postsecondary education and adult learning so that adults will be better prepared to compete in a global economy and exercise the rights and responsibilities of citizenship. The institute will carry out a program of research and development that will include subjects such as the development of human capital through postsecondary and adult education; the role of special mission educational institutions such as women's colleges and historically black colleges and universities; new models of service delivery through library systems; effective methods of adult literacy education; and the uses and application of new technology to improve teaching and lifelong learning.

Priorities: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1. To examine how public library systems and other community-based educational institutions can take full advantage of the potential of new information technologies to expand opportunities for adult lifelong learners.

Invitational Priority 2. To examine innovative and experimental approaches used by community-based education providers with respect to: instruction, the provision of information on self-directed learning, assessment of learner needs, and collaborative activities with other community-based education providers. Community-based education providers include libraries, museums, and local continuing education programs.

Invitational Priority 3. To examine the capacities of special mission institutions to provide access and excellence in higher education. Special mission institutions include Historically Black Colleges and Universities, Tribally-Controlled Indian Community Colleges, women's colleges, Hispanic-serving institutions and institutions serving students with disabilities.

Invitational Priority 4. To examine the effectiveness of various model approaches to the provision of family literacy programs.

Invitational Priority 5. To increase our understanding of workplace education and training approaches to improve workforce productivity and meet the challenges of the international economy.

For Applications or Information Contact: Delores Monroe, National Institute on Postsecondary Education, Libraries, and Lifelong Learning, U.S. Department of Education, 555 New Jersey Avenue, NW, Room 620, Washington, DC 20208–5531. Telephone (202) 219–2229, or FIS@INET.ED.GOV.

Program Authority: 20 U.S.C. 6031 (c)(2)(B).

Dated: September 11, 1995.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 95–22875 Filed 9–13–95; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Thursday
September 14, 1995

Part V

Federal Retirement Thrift Investment Board

5 CFR Part 1601

Participant Choices of Investment Funds; Final Rule

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1601

Participant Choices of Investment Funds

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rules; amendment.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing an amendment to final rules on participants' choices of Thrift Savings Plan (TSP) investment funds. The amendment has the effect of eliminating the automatic transfer to the Government Securities Investment (G) Fund of the accounts of participants who begin to withdraw their accounts as a series of equal payments. The amendment also makes participants who are receiving their accounts as a series of equal payments eligible to make interfund transfers pursuant to the same rules applicable to all other TSP participants.

EFFECTIVE DATE: This amendment is effective September 16, 1995.

FOR FURTHER INFORMATION CONTACT: Questions concerning this amendment may be addressed to David L. Hutner, Federal Retirement Thrift Investment Board, 1250 H Street NW., Washington, D.C. 20005, (202) 942–1661.

SUPPLEMENTARY INFORMATION: Interim rules governing participants' choices of investment funds were originally published in the **Federal Register** on March 29, 1990, (55 FR 11880) as an amendment to title 5 of the Code of Federal Regulations, adding Part 1601, Participants' Choice of Investment Funds. Revised interim rules were published in the **Federal Register** at 56 FR 592 on January 7, 1991, primarily to implement section 3 of the Thrift Savings Plan Technical Amendments Act of 1990 (TSPTAA), which removed investment restrictions that had been in place prior to the effective date of the TSPTAA. On December 28, 1994, the Board published proposed amendments to the interim rules in the **Federal Register** (59 FR 66796) setting forth changes in the procedures by which TSP participants may make, change, or cancel interfund transfer requests. The Board did not receive any comments on the proposed amendments. On May 26, 1995, the December 28, 1994, proposed amendments to the interim rules were withdrawn and replaced by new proposed amendments (60 FR 27908). No comments on the new proposed amendments were received, and final rules were published on July 17, 1995 (60 FR 36630). However, a proposal to remove investment restrictions from the accounts of participants who are receiving equal payments (which was included in the May 26 proposal) was deleted from the final rules because the technical changes necessary to accomplish that procedure had not been completed. It was stated in the preamble to the final rules that when those technical changes were completed, the Board intended to amend the regulations to eliminate the investment restrictions. The required technical changes will be completed by October 1995. Accordingly, these amendments are designed to eliminate the investment restrictions that have previously applied to participants receiving equal payments.

There are two aspects to the investment restrictions applicable to participants receiving equal payments, both of which are incorporated in 5 CFR 1601.4(c). First, upon commencement of withdrawal of a participant's account through a series of equal payments, the participant's entire account balance is automatically transferred to the G Fund. Second, participants receiving withdrawals by a series of equal payments are not permitted to make interfund transfers out of the G Fund. The present amendment eliminates both restrictions. Thus, as of the effective date of the amendment, participants who are already in equal payment status will be eligible to make interfund transfer requests to be effective October 31, 1995.

The final automatic transfer to the G Fund will be effective September 30, 1995. Participants whose first equal payment is effective October 31, 1995, or later, will not have their accounts automatically transferred to the G Fund. Participants whose first equal payment is issued (in November) effective October 31, 1995, will also be eligible to request an interfund transfer effective as of that date.

Participants whose first equal payment is issued (in November) effective October 31, 1995, will receive a notice advising them of their ability to make interfund transfer requests. Participants who request equal payment withdrawals commencing in subsequent months with similarly be notified that they may make interfund transfers while they are receiving equal payments.

There will also be a one-time notice issued in mid-September 1995 to participants who are already receiving equal payments. The participants will be advised that beginning September 16, 1995, they will be eligible to make interfund transfer requests. Their first interfund transfer opportunity will be for interfund transfers effective October 31, 1995.

In order to make an interfund transfer effective October 31, 1995, the interfund transfer request must be received by October 16, 1995. On September 16, 1995, the TSP recordkeeper will begin accepting interfund transfer requests for transfers effective October 31, 1995, in accordance with the ordinary rules for processing interfund transfer requests that are set forth in this part.

Regulatory Flexibility Act

I will certify that these regulations will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Waiver of Notice of Proposed Rulemaking and 30-day Delay of Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), (d)(1) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making these amendments effective in less than 30 days. These amendments remove restrictions on TSP participants' ability to choose the investment funds in which their accounts will be invested. Moreover, the substantive provision of this amendment was originally included in proposed amendments published in the **Federal Register** (60 FR 27908) on May 26, 1995. Although the final rules published on July 17, 1995, deleted the substantive provision of the present amendment for the reasons stated in the preamble to the final rules (60 FR 36630), no comments were received during the 52 days the proposal was outstanding. Accordingly, I find that publication of these amendments in proposed form is unnecessary.

List of Subjects in 5 CFR Part 1601

Employee benefit plans, Government employees, Retirement, Pensions.

Dated: September 11, 1995.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

Accordingly, 5 CFR Part 1601 is amended as follows:

PART 1601—PARTICIPANTS' CHOICES OF INVESTMENT FUNDS

1. The authority citation for Part 1601 continues to read as follows:

Authority: 5 U.S.C 8351, 8438, 8474 (b)(5) and (c)(1).

§ 1601.4 [Amended]

2. Section 1601.4 is amended by removing paragraph (c).

[FR Doc. 95–22868 Filed 9–13–95; 8:45 am]

BILLING CODE 6760–01–M

Federal Register

Thursday
September 14, 1995

Part VI

Department of Housing and Urban Development

24 CFR Part 200

Use of Materials Bulletin 101 Used in the HUD Building Product Standards and Certification Program for Exterior Finish and Insulation Systems (EFIS); Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket FR–3365–F–02]

RIN 2502–AF84

Use of Materials Bulletin 101 Used in the HUD Building Product Standards and Certification Program for Exterior Finish and Insulation Systems (EFIS)

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule adopts Use of Materials Bulletin (UM) No. 101 Exterior Finish and Insulation Systems (EFIS). The UM references related national voluntary consensus standards, provides a labeling and third party certification program to meet the appropriate national voluntary standards, requires that a third-party inspection at the job site be conducted, provides that additional information be included on the label, tag, or mark that each manufacturer would affix to a certified product, specifies the frequency with which products must be tested in order to be acceptable to HUD, and requires an inspection report regarding installation.

DATES: *Effective date:* Octoer 16, 1995. The incorporation by reference of certain publications listed in the regulations is approved by the Director of Federal Register as of August 16, 1995.

FOR FURTHER INFORMATION CONTACT: Leslie Breden, Office of Manufactured Housing and Regulatory Functions, Standards and Products Branch, Department of Housing and Urban Development, room 3214, L'Enfant Plaza, 490E, 451 Seventh Street SW., Mail Room B–133, Washington, DC 20410–8000; telephone, voice: (202) 755–7440; (TDD) (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Pursuant to HUD's Building Product Standards and Certification Program, which is authorized by Section 521 of the National Housing Act, 12 U.S.C. 1735e, the Department issues Use of Materials Bulletins (UM's). The UM's are issued to provide HUD standards that establish minimum acceptable qualities for certain materials and products to be used in properties subject to mortgages insured by the Department. A UM is also used as a means of promulgating a labeling and a certification program to assure that the products used meet the appropriate standard.

On June 25, 1993 HUD published in the **Federal Register** (58 FR 34502) an interim rule which adopted Use of Materials Bulletin (UM) No. 101 Exterior Finish and Insulation systems (EFIS). The rule solicited public comments. Eleven commenters sent comments.

One trade association objected to the elimination of gypsum wallboard. It claimed other parts of the EFIS system fail and then this, in turn, causes the wallboard to fail. The Department agrees that when the gypsum wallboard fails, it is usually the result of a break in the exterior envelope allowing moisture to enter the EIFS system. However, once water gets inside the EFIS system, the paper over the gypsum core debonds resulting in a catastrophic failure of the gypsum wallboard and a loss of the cladding's securement to the building structure. Therefore, the Department has referenced a standard for fiber cement board which remains secure even when wet.

Similarly, two manufacturers desire to use a sheathing material that does not comply with American Society for Testing and Materials C–1186. The Department contends that the sheathing should last as long as the mortgage and since the manufacturer will only guarantee this product for 5 years, it was determined that 5 years is not a long enough time for one to have confidence in the integrity of the whole EFIS system.

One inspection agency suggested that other variables, such as temperature and the esthetic design, should be included in the UM. The Department feels there is a wide range of possible variables in EFIS systems and it was not possible at this time to examine all of these items, but the Department will continue to examine these and other parameters to determine if they have a significant effect on the failure of the EFIS system.

Another trade association suggested that nationally recognized standards such as, Exterior Insulation Manufacturers Association (EIMA) and American Society for Testing and Materials (ASTM) Standards, be referenced in lieu of Military and Federal standards. The Department agrees and has referenced EIMA and ASTM standards wherever possible.

One testing laboratory suggested a new water absorption test for polystyrene foam. The Department will add this test to a future revision of UM 101 when it is adopted by ASTM.

One manufacturer wants a wider definition of fiber cement board than that defined by ASTM C 1186–91. The Department feels that this would require a revision to the ASTM standard. Therefore, the Department has recommended that the appropriate ASTM committee be contacted for revising the existing standard.

Finally, a third party inspection agency suggested that ASTM C 578–92 be referenced instead of ASTM C 578–91. UM 101 has been changed to incorporate UM 71 which contains ASTM C 578–92. It also wants a better definition of hail damage. To date, the Department has not been able to exactly quantify what is meant by hail damage. It is investigating establishing a knowledgeable review by peer inspectors for determining the definition of hail damage.

The Department has evaluated the technical standards for exterior finish and insulation systems and plans to adopt these standards by incorporating them into the UM by reference. The UM's adoption would also augment the labeling requirements of 24 CFR 200.935(d)(6).

The text of the UM is not being produced in the final rule because the substance is embodied in a new section of 24 CFR 200.946 set forth below. However, copies of the UM are available for public inspection during regular business hours in the Office of Manufactured Housing and Regulatory Functions, Standards and Products Branch, Department of Housing and Urban Development, room 3214 L'Enfant Plaza, 490E, Mail Room B–133, Washington, DC, 20410–8000, and in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–0500.

National Environmental Policy Act

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement Section 102 (2)(c), of the National Environment Policy Act of 1969, 42 U.S.C. 4321 *et. seq.* The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial

number of small entities. This UM would adopt standards that are nationally recognized throughout the affected industry and will not create a burden on manufacturers.

Family Impact

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this final rule does not have potential for significant impact on family formation, maintenance, and general well-being; therefore, it is not subject to review under the order.

Federalism

The General Counsel, as the Designated Official under Section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this final rule would not have substantial direct effect on states or their political subdivisions, or the relationship between the Federal government and the states, or on the distribution of power and responsibilities among the various levels of government. As a result, the final rule is not subject to review under the order.

Incorporation by Reference

These standards have been approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR 51. Copies of the standards may be obtained from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103; the Council of American Building Officials, 5203 Leesburg Pike, Falls Church, Virginia 22041; & the Exterior Insulation Manufacturers Association, 2759 State Road 580, Suite 112, Clearwater, Florida 34621.

Copies of the standards are also available for inspection at the Office of Manufactured Housing and Regulatory Functions, Standards and Products Branch, Department of Housing and Urban Development, Room 3214, L'Enfant Plaza, 490E, Mail Room B–133, Washington, DC 20410–8000, and at the Office of the Federal Register, 800 North Capital Street, NW, Suite 700, Washington, DC.

List of Subjects in 24 CFR Part 200

Administrative Practice and Procedures, Claims, Equal Employment Opportunity, Fair Housing, Housing Standards, Incorporation by Reference, Lead Poisoning, Loan Programs—Housing and Community Development, Minimum Property Standards, Mortgage Insurance, Organization and Functions (Government agencies), Penalties, Reporting and Recordkeeping Requirements, Social Security, Unemployment Compensation, Wages.

Accordingly, 24 CFR Part 200 is amended as follows:

PART 200—INTRODUCTION

1. The authority citation for 24 CFR 200 continues to read as follows:

Authority: 12 U.S.C. 1701–1715z–(18); 42 U.S.C. 1436a and 3535(d).

2. Section 200.946 is revised to read as follows:

§ 200.946 Building product standards and certification program for exterior finish and insulation systems, use of Materials Bulletin UM 101.

(a) *Applicable standards:* (1) All Exterior Finish and Insulation Systems shall be designed, manufactured, and tested in compliance with the following standards:

(i) ASCE 7–93, American Society of Civil Engineers—Minimum Design Loads for Buildings and Other Structures.

(ii) ASTM C 150–94 Standard Specification for Portland Cement.

(iii) ASTM C 920–87 Standard Specification for Elastomeric Joint Sealants.

(iv) ASTM C–1186–91 Standard Specification for Flat Non-Asbestos Fiber-Cement Sheets.

(v) ASTM D 579–90 Standard Specification for Greige Woven Glass Fabrics.

(vi) ASTM–D 3273–86—(Reapproved 1991) Standard Test Method for Resistance to Growth of Mold on the Surface of Interior Coatings in an Environmental Chamber.

(vii) ASTM E 330–90 Standard Test Method for Structural Performance of Exterior Windows, Curtain Walls, and Doors by Uniform Static Air Pressure Difference.

(viii) ASTM E 695–79 (Reapproved 1991), Standard Method of Measuring Relative Resistance of Wall, Floor, and Roof Construction to Impact Loading.

(ix) ASTM G 26–93 Standard Practice for Operating Light-Exposure Apparatus (Xenon-Arc Type) With and Without Water for Exposure of Nonmetallic Materials.

(x) Council of American Building Officials, Model Energy Code, 1993 Edition.

(xi) EIMA Test Method 101.01–95 (modified ASTM C67–91) Standard Test Method for Freeze/Thaw Resistance of Exterior Insulation and Finish Systems (EIFS), Class PB.

(xii) EIMA Test Method 101.02–95 (modified ASTM E331–91)—Standard Test Method for Resistance to Water Penetration of Exterior Insulation and Finish Systems (EIFS), Class PB.

(xiii) EIMA Test Method 101.03–95 (modified ASTM C297–91)—Standard Test Method for Determining the Tensile Adhesion Strength of an Exterior Insulation and Finish System (EIFS), Class PB.

(xiv) EIMA Test Method 105.01–95—Standard Test Method for Alkali Resistance of Glass Fiber Reinforcing Mesh for Use in Exterior Insulation and Finish Systems (EIFS), Class PB.

(xv) European Agreement Union Technical Committee—June 88—UEAtc Directives for the Assessment of External Insulation System for Walls (Expanded Polystyrene Insulation Faced with a Thin Rendering) Section 3.3.3.3.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. They are available from:

(i) American Society Civil Engineers (ASCE) 345 East 47th Street, New York, NY 10017.

(ii) American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103;

(iii) Council of American Building Officials, 5203 Leesburg Pike, Falls Church, Virginia 22041;

(iv) EAUTC Centre Scientifique ET Technique Du Batiment (CSTB), 84 Avenue Jesu Jaures, B.P. 02–77421 Marne-LA-Valee Cedex 2, Paris, France.

(v) Exterior Insulation Manufacturers Association (EIMA), 2759 State Road 580, Suite 112, Clearwater, Florida 34621–3350.

(3) The standards are available also for inspection at the Office of Manufactured Housing and Regulatory Functions, Standards and Products Branch, Department of Housing and Urban Development, room 3214, L'Enfant Plaza, 490E, Mail Room B–133, Washington, DC 20410–8000, and at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(b) *Labeling.* Under the procedures as set forth in § 200.935(d)(6), concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applied standard is required to be on the certification label issued by the administrator to the manufacturers. In the case of exterior wall insulation and finish systems, the certification label containing the administrator's mark shall be permanently affixed on the package or container of base and finish coating materials. Further, additional information shall be included on the certification label or mark:

(1) Manufacturer's name.

(2) Manufacturer's statement of conformance with UM 101.

(c) The Administrator shall visit the manufacturer's or sponsor's facility every 6 months, to assure that the initially accepted quality assurance procedures are being followed. At least every four years, the Administrator also shall have the exterior wall insulation and finish systems tested in an approved laboratory to assure that the original performance is maintained.

(d) The administrator's (or administration-accepted inspection agency) inspection of EFIS system installation of 5000 sq. ft. or more, shall be made during and upon completion of the construction. Reports of the inspection shall be made to the owner. These reports shall state:

(1) The coverage of the finish coat per square foot for a given volume of finish.

(2) The minimum thickness of the base and finish coatings.

(3) The fiberglass mesh is installed properly around joints and insulation. All penetrations, including windows, flashing, etc., are sealed; and there is a caulk and sealant continuity evaluation; and

(4) There is a caulk and sealant continuity evaluation with special concerns on maintenance.

(d) The manufacturer shall warrant their exterior wall insulation and finish system, including any caulks and sealants, for twenty years against faulty performance. The warranty shall include correction of delamination, chipping, denting, peeling, blistering, flaking, bulging, unsightly discoloration, or other serious deterioration of the system such as the intrusion of water through the wall or structural failure of the system's surface materials. Should any of these defects occur, the manufacturer shall make a pro-rata allowance for replacement or pay the owner the amount of the allowance. The manufacturer shall not be liable for damages or defects resulting from misuse, natural catastrophes, or other causes beyond the control of the manufacturer. The contractor shall provide a statement to the owner that the product has been installed in compliance with HUD requirements and that the manufacturer's warranty does not relieve the builder, in any way, of responsibility under the terms of the Builder's Warranty required by the National Housing Act, or under any other housing program.

Dated: May 11, 1995.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 95–22824 Filed 9–13–95; 8:45 am]

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Part VII

Securities and Exchange Commission

17 CFR Part 239 et al.

Personal Investment Activities of Investment Company Personnel and Codes of Ethics of Investment Companies and Their Investment Advisers and Principal Underwriters; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 239, 270, 274 and 275

[Release No. 33–7212, IC–21341, IA–1518, File No. S7–25–95]

RIN 3235–AG27

Personal Investment Activities of Investment Company Personnel and Codes of Ethics of Investment Companies and Their Investment Advisers and Principal Underwriters

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendments to rules and forms.

SUMMARY: The Commission is proposing amendments to the rule under the Investment Company Act of 1940 that prohibits investment company personnel from engaging in fraudulent acts in connection with their personal transactions in securities held or to be acquired by the investment company, and requires an investment company and its investment adviser and principal underwriter to adopt codes of ethics reasonably designed to prevent such acts. The amendments would increase the oversight role of an investment company's board of directors with respect to the codes of ethics applicable to the investment company, improve the manner in which investment company personnel report their personal securities transactions to their employers, and clarify certain provisions of the rule (including the scope of its anti-fraud provision). Related proposed amendments would require an investment company to provide information about its policies concerning personal investment activities in its prospectus. The Commission also is proposing conforming changes to the rule under the Investment Advisers Act of 1940 that requires an investment adviser to maintain records of its advisory representatives' personal transactions in securities. The proposed amendments are intended to enhance board of director oversight of the policies governing personal transactions in securities by investment company personnel and to make available to the public additional information about these policies.

DATES: Comments must be received on or before November 13, 1995.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Stop 6–9, Washington, DC 20549. All comment letters should refer to File No. S7–25–95. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: David M. Goldenberg, Senior Counsel, or Kenneth J. Berman, Assistant Director, at (202) 942–0690, Office of Regulatory Policy, Division of Investment Management, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission today is requesting public comment on proposed amendments to rule 17j-1 (17 CFR 270.17j-1) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et. seq.*) (the ''Investment Company Act''), rule 204–2 (17 CFR 275.204–2) under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 *et. seq.*) (the ''Advisers Act''), Forms N–1A (17 CFR 239.15A, 274.11A), N–2 (17 CFR 239.14, 274.11a-1), N–3 (17 CFR 239.17a, 274.11b) and N–5 (17 CFR 239.24, 274.5) under the Investment Company Act and the Securities Act of 1933 (15 U.S.C. 77a-77aaa) (the ''Securities Act'') and Form N–8B–2 (17 CFR 274.12) under the Investment Company Act.

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Executive Summary

Conflicts of interest between investment company (''fund'') personnel (such as portfolio managers) and their funds can arise when these persons buy or sell securities for their own accounts (''personal investment activities''). These conflicts arise because fund personnel have the opportunity to profit from information about fund transactions, often to the detriment of fund investors. Rule 17j–1 under the Investment Company Act addresses these conflicts of interest by: (i) Prohibiting fraudulent, deceptive or manipulative acts by fund affiliates and certain other persons in connection with their personal transactions in securities held or to be acquired by the fund; (ii) requiring funds and their investment advisers and principal underwriters (collectively, ''rule 17j–1 organizations'') to adopt codes of ethics containing provisions reasonably necessary to prevent their ''access persons'' (generally, those fund personnel involved in the portfolio management process) from engaging in conduct prohibited by the rule; and (iii) requiring access persons to report their personal securities transactions to the appropriate rule 17j–1 organization. The rule also imposes certain recordkeeping requirements.

The Commission's Division of Investment Management (''Division'') recently completed its first detailed study of fund policies concerning personal investment activities since rule 17j–1 was adopted in 1980.[1] In the report on its study, the Division recommended several of the amendments to rule 17j–1 that the Commission is proposing today.

The proposed amendments are designed to improve the regulation of personal investment activities in three respects. First, the proposals would enhance the oversight of personal investment activities by (i) requiring management of a fund and of its investment adviser and principal underwriter, at least annually, to provide the fund's board of directors with a report describing issues arising during the previous year under the codes of ethics applicable to the fund and (ii) requiring access persons to provide the appropriate rule 17j–1 organization with information about securities owned by them at the time they become access persons.

Second, the proposed amendments are designed to provide the public with additional information about fund policies concerning personal investment activities. The Commission is proposing to require that a fund's prospectus disclose whether or not the fund permits its personnel to invest in securities, including securities that may be purchased or held by the fund. In

[1] Division of Investment Management, SEC, Personal Investment Activities of Investment Company Personnel (1994) (''PIA Report'').

addition, a fund would have to file with the Commission copies of all codes of ethics applicable to the fund as exhibits to its registration statement.

Third, the proposed amendments would tailor rule 17j–1 to make its scope more consistent with its purpose. The proposed amendments would (i) clarify that transactions involving certain securities related to securities in which a fund invests (such as debt securities convertible into stock in which the fund invests) are subject to the rule's anti-fraud provision, (ii) specify that money market funds and money market instruments are not subject to the rule's requirements concerning codes of ethics and transaction reporting, and (iii) clarify the meaning of the term ''beneficial ownership'' for purposes of the rule's reporting requirements for access persons. The Commission also is proposing certain conforming changes to the recordkeeping provisions applicable to investment advisers in rule 204–2 under the Advisers Act.

I. Background

When fund personnel buy or sell securities for their personal accounts, conflicts of interest with fund investors may arise. For example, in performing their day-to-day responsibilities, fund personnel may have access to information about impending fund transactions that they could use for their own benefit. A fund manager also could profit if the manager causes a fund to purchase or hold portfolio securities in order to protect or strengthen the manager's personal investments in these securities.

Beginning in the early 1960s, Congress and the Commission sought to devise a regulatory scheme to effectively address these potential conflicts.[2] These efforts culminated in the enactment of section 17(j) of the Investment Company Act in 1970 and the adoption by the Commission of rule 17j–1 under the Investment Company Act in 1980.[3]

A. Section 17(j) and Rule 17j–1

Section 17(j) of the Investment Company Act makes it unlawful for persons affiliated with a rule 17j–1 organization (*i.e.*, a fund or its investment adviser or principal underwriter), in connection with the purchase or sale of securities held or to be acquired by the fund, to engage in any fraudulent, deceptive or manipulative act or practice in contravention of rules and regulations adopted by the Commission. Section 17(j) authorizes the Commission to adopt rules to address the conflicts of interest presented by personal securities trading by these persons, including rules requiring the adoption of codes of ethics by funds and their investment advisers and principal underwriters.

In 1980, the Commission adopted rule 17j–1.[4] The rule, which has not been amended since its adoption, prohibits fraudulent, deceptive or manipulative acts by persons affiliated with a fund or its investment adviser or principal underwriter in connection with their personal transactions in securities held or to be acquired by the fund.[5] The rule also (i) requires rule 17j–1 organizations to adopt codes of ethics containing provisions reasonably necessary to prevent ''access persons'' [6] from engaging in such fraudulent, deceptive or manipulative acts, (ii) requires access persons to report their personal securities transactions to the rule 17j–1 organizations of which they are access persons at least quarterly, and (iii) requires rule 17j–1 organizations to maintain certain records and to make those records available for inspection by the Commission.

Congress gave the Commission the authority to mandate that codes of ethics restrict or prohibit certain activities of access persons and other employees. The Commission recognized when adopting rule 17j–1, however, that no single set of guidelines would be appropriate for all funds. The Commission stated in the release adopting the rule that ''as a matter of policy the Commission believes the introduction and tailoring of ethical restraints on the behavior of persons associated with an investment company can best be left in the first instance to the directors of the investment company.'' [7] The rule therefore does not require that codes of ethics contain any specific restrictions or prohibitions. Additionally, while the rule does require access persons to report their personal securities transactions, it does not place restrictions on the timing or nature of those transactions, other than the general restrictions of the rule's anti-fraud provision.

B. Recent Developments Concerning Personal Investment Activities

The personal investment activities of fund personnel received renewed attention early in 1994 after an investment adviser to several funds dismissed a well-known portfolio manager, alleging that he had failed to report a number of his personal securities transactions as required under both the Investment Company Act and the Advisers Act.[8] At about the same time, the media reported that the country's largest fund complex had amended its rules on personal investment activities in response to certain trading practices.[9] These developments drew further media and congressional attention to the ethical

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[2] *See, e.g.*, Report of the Securities and Exchange Commission on the Public Policy Implications of Investment Company Growth, H.R. Rep. No. 2337, 89th Cong., 2d Sess. 200 (1966) (''PPI Report''). In the PPI Report, the Commission expressed its concern about the ''ever present danger'' of conflicts of interest that arises when fund personnel engage in personal trading. *Id.* at 195. The Commission noted a 1963 report that had found ''widespread'' insider trading of fund portfolio securities by fund personnel. *Id.* at 196.

[3] Abusive personal investment activities by fund access persons are prohibited not only by section 17(j) and rule 17j–1, but also by other provisions of the federal securities laws. For example, a fund manager who buys or sells securities for his or her own account ahead of the fund (''front running'') or makes investment decisions for the fund with the intent to benefit personally may violate the anti-fraud provisions of section 17(a) of the Securities Act and section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et. seq.*) (''Exchange Act'') and rule 10b–5 thereunder. The manager also may violate section 17(d) of the Investment Company Act and rule 17d–1 thereunder if the manager purchases or sells the same securities as the fund he or she manages in a joint transaction or arrangement. The manager also could violate section 206 of the Advisers Act if the manager's personal trading defrauds or operates as a fraud on the fund.

[4] Prevention of Certain Unlawful Activities With Respect To Registered Investment Companies, Investment Company Act Release No. 11421 (Oct. 31, 1980), 45 FR 73915 (''Adopting Release'').

[5] Rule 17j–1(a).

[6] As defined in rule 17j–1(e), ''access persons'' generally include officers, directors and any employees who participate in the selection of a fund's portfolio securities or who have access to information regarding a fund's impending purchases or sales of portfolio securities.

[7] Adopting Release, *supra* note 4, at 73916. The need for flexibility was explicitly recognized by Congress. The House and Senate Reports that accompanied section 17(j) noted that:

> The ability to deal with (personal securities) transactions by rule is intended to permit the Commission to draw flexible guidelines to prohibit persons affiliated with investment companies, their advisers and principal underwriters, from engaging in securities transactions for their personal accounts when such transactions are likely to conflict with the investment programs of their companies.

H.R. Rep. No. 1382, 91st Cong., 2d Sess. 28 (1970) (''House Report''); S. Rep. No. 184, 91st Cong., 1st Sess. 29 (1969) (''Senate Report'').

[8] *See, e.g.*, Robert McGough and Sara Calian, *Invesco Funds Fires Kaweske, A Star Manager,* Wall St. J., Jan. 6, 1994, at C1; Chris Wloszczyna, *Invesco Funds Fires Portfolio Manager,* USA Today, Jan. 6, 1994, at 2B; Jay Mathews, *Invesco Fires Manager Over Trade Reports,* Wash. Post, Jan. 7, 1994, at G2. The Commission instituted an enforcement action in federal district court against the portfolio manager in February 1995, alleging, among other things, violations of rule 17j–1(c) under the Investment Company Act. SEC v. John J. Kaweske, Civil Action No. 95–N–296 (D. Colo. filed Feb. 6, 1995).

[9] *See, e.g.*, Brett D. Fromson, *Fund Managers' Own Trades Termed a Potential Conflict; Biggest Mutual Fund Firm Tightens Rules,* Wash. Post, Jan. 11, 1994, at A1.

standards in the fund industry.[10] In response to the concerns raised, the Division initiated a study of rule 17j–1 and the personal investment activities of portfolio managers and other fund employees. The Division released a report on its study (the ''PIA Report'') in September 1994.[11]

The Division studied the personal investment activities of 622 fund managers employed by thirty companies that, in the aggregate, managed 1,053 mutual funds with total assets of $521 billion. The Division concluded that the existing regulatory framework governing the personal investment activities of fund personnel generally has worked well, but can be improved in certain respects. The Division recommended that the Commission amend rule 17j–1 to further protect fund shareholders by (i) enhancing the oversight of personal investment policies by fund boards, (ii) making it easier for funds to monitor the personal securities transactions of fund personnel, and (iii) making available to the public additional information about fund policies on personal investment. The Commission agrees with the conclusions contained in the PIA Report and is proposing amendments that will effect these recommendations.[12]

II. Discussion

A. Role of Fund Boards

1. Initial Reviews and Annual Reports

The board of directors or trustees of a fund has a significant oversight role with respect to the personal investment activities of fund personnel.[13] The board is responsible for ensuring that the fund establishes a code of ethics that satisfies the requirements of rule 17j–1.[14] The Commission is proposing two amendments to rule 17j–1 that would facilitate ongoing board oversight of codes of ethics. First, the proposed amendments would require a fund's board to affirmatively approve the fund's code and review the codes of any investment adviser or principal underwriter whose services it seeks to retain for the fund.[15] Second, the proposed amendments would require management of a fund and of its investment adviser and its principal underwriter to provide the board, at least annually, with reports describing issues arising during the previous year under the codes of ethics applicable to the fund.[16]

Although rule 17j–1 currently requires every fund to have a code of ethics, the rule does not explicitly require a fund's *board* to take any actions regarding the fund's code or other codes of ethics applicable to the fund. The Commission believes that the rule should be more explicit concerning the role of fund boards. The Commission has refrained from requiring by rule that codes of ethics contain specific restrictions, prohibitions or other provisions, preferring instead that each board establish an appropriate code for its fund. Additionally, a code of ethics that is tailored to the specific characteristics of a fund is fundamental to assuring that access persons do not engage in fraudulent or unethical conduct. It therefore is appropriate that the rule explicitly require a fund's board to have a continuing role in overseeing the application of these policies.

The standard for the board to apply when approving the fund's code or reviewing the code of an investment adviser or principal underwriter would be whether the code contains such provisions as are reasonably necessary to prevent access persons from violating rule 17j–1's anti-fraud provision.[17] The factors that the board should consider when making this determination will necessarily vary depending upon the investment objectives and policies of the fund, as well as the organization and activities of the fund's investment adviser and principal underwriter. Thus, the Commission is not proposing to include in the rule a list of the factors a board should consider in assessing a code of ethics. The Commission believes, however, that the consideration of certain basic issues may be particularly important for all funds.

As an initial matter, the board should consider whether personal investing by fund personnel is consistent with the interests of fund shareholders and should be permitted. Additionally, the board should determine whether the code establishes clear criteria for determining whether a security is ''being considered for purchase'' by the fund.[18] Such criteria may better enable

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[10] *See, e.g.,* Tom Petruno, *When It Comes to Fund Industry, Public Trust Must Be A Mutual Issue,* L.A. Times, Jan. 12, 1994, at D1; Steve Bailey and Aaron Zitner, *Mutual Fund Managers Come Under Scrutiny,* Bost. Globe, Jan. 16, 1994, at A1; Susan Antilla, *Fund Managers Testing the Rules,* N.Y. Times, Jan. 23, 1994, § 3, at 15; Geoffrey Smith, *Mutual Funds: The Rules on Insider Trading, Please,* Bus. Wk., Jan. 31, 1994, at 60. *See also* Letter from Edward J. Markey, Chairman, Subcommittee on Telecommunications and Finance of the House Committee on Energy and Commerce, to Arthur Levitt, Jr., Chairman, U.S. Securities and Exchange Commission (Jan. 11, 1994).

[11] *See supra* note 1. The fund industry also responded to the concerns. The Investment Company Institute (''ICI''), an association of funds representing 95% of total fund assets under management in the United States, organized an Advisory Group on Personal Investing (''ICI Advisory Group''). The ICI Advisory Group, which consisted of six industry representatives, conducted a review of practices and standards governing personal investing by fund personnel. *See* ICI, Report of the Advisory Group on Personal Investing (1994) (''ICI Report''). The ICI Report stated that most codes of ethics reviewed by the Advisory Group exceeded the requirements of rule 17j–1, but recommended that funds adopt additional measures regarding conflicts of interest and personal securities transactions in order to preserve the confidence of investors. *Id.* at iii, v. The ICI's board of governors recommended that all rule 17j–1 organizations adopt the recommendations contained in the ICI Report.

The ICI subsequently conducted a survey of its members to determine whether the fund industry had adopted the recommendations made in the ICI Report. Eighty-five percent of the ICI's member funds responded to the survey. ICI, Report to the Division of Investment Management, U.S. Securities and Exchange Commission: Implementation of the Institute's Recommendations on Personal Investing (1995) (''ICI Survey''). The ICI Survey indicated that more than a majority of the funds responding to the survey had adopted most of the ICI Advisory Group's recommendations, either in full or as adapted to meet each fund's unique business activities, structure and operations. As discussed below in Part II.A.3, the Commission is seeking comment whether to incorporate any of the ICI Advisory Group's recommendations into rule 17j–1.

[12] The Division made three additional recommendations in the PIA Report. First, the Division recommended that the National Association of Securities Dealers, Inc. (''NASD'') consider adopting a rule requiring its members (i) to notify a fund or investment adviser whenever an employee opens an account with the member, and (ii) upon request, to provide duplicate copies of the employee's trade confirmations and account statements to the fund or adviser. Second, the Division recommended that the NASD review the applicability of its ''free-riding'' rules (which prohibit NASD members from selling ''hot issue'' securities to their employees) to fund personnel. Finally, the Division recommended in the PIA Report that Congress amend section 17(j) to expand the Commission's rulemaking authority to define and proscribe fraud to include transactions that involve financial instruments that are not securities.

The NASD has advised the Division that its Investment Companies Committee has considered and decided not to act on the Division's recommendations to the NASD. The Committee concluded that the NASD does not have a mechanism to ensure compliance with a new rule requiring a member to notify a fund or investment adviser when an employee opens an account with the member. The Committee also concluded that, in the absence of a pattern of abuses involving personal investment activities, amendments to its ''free-riding'' rules would not be appropriate.

[13] All references in this Release to boards of directors include boards of trustees for funds organized as business trusts.

[14] As part of its oversight role, the board also is responsible for monitoring the operation of the code, including making amendments as may be necessary or appropriate in light of any violations of the code and changing circumstances generally. *See* PIA Report, *supra* note 1, at 34.

[15] Proposed amendment to rule 17j–1(b). The codes of ethics of a fund's investment adviser and principal underwriter may be of greater importance than those of the fund because the investment adviser and principal underwriter typically employ most of the personnel involved in fund management.

[16] Proposed rule 17j–1(b)(2).

[17] Proposed rule 17j–1(b)(1)(ii).

[18] Paragraph (e)(6) of rule 17j–1 defines ''security held or to be acquired'' by a fund to mean any

access persons and compliance personnel to determine whether certain personal securities transactions may violate the fund's code or Rule 17j–1.[19] These criteria also may serve to remind fund managers of their duty to avoid taking advantage of investment opportunities that should be brought to the attention of the fund.[20] Finally, a board should consider the extent to which the code addresses the potential violations of rule 17j–1 that may occur when a fund access person purchases or sells securities held by another fund in the same complex.[21]

Under the proposed amendments, the board also likely will wish to determine whether the rule 17j–1 organizations have instituted such procedures as are reasonably necessary to prevent violations of their codes. The rule would not mandate any particular compliance procedures (other than the rule's existing transaction reporting requirements).[22] A fund board, however, should consider the necessity of procedures based on the circumstances of the fund and the other rule 17j–1 organizations. A board may want to consider, for example, whether the code and procedures should include a requirement that all access persons receive prior approval of their personal securities transactions (''pre-clearance''). The board may decide that pre-clearance is a necessary part of the code in order to prevent persons from violating the code and rule 17j–1's anti-fraud provision.[23] The board also may want to consider whether other types of reporting requirements, in addition to those required by rule 17j–1, are appropriate for the fund.

The determinations required by the proposed amendments would need to be made by a majority of the fund's directors, including a majority of the independent directors (*i.e.*, directors who are not ''interested persons'' of the fund).[24] The role of independent fund directors in policing conflicts of interest is central to the Investment Company Act.[25] The codes of ethics applicable to a fund, and the manner in which these codes are implemented, should be designed to address the fundamental conflict of interest that results when fund access persons are in a position to take personal advantage of the knowledge and opportunities presented because of their positions. Thus, it is appropriate for independent directors to have a primary role in establishing and overseeing the implementation of the policies that address this conflict.

The board's involvement in the personal investment policies applicable to the fund should not cease after the board's initial approval or review of a code of ethics. Continued oversight of the personal investment policies applicable to the fund is in the interest of shareholders because it subjects these policies to independent, objective analysis by the ''watchdog'' for fund shareholders.[26] The proposed amendments would require the management of each rule 17j–1 organization to provide the board with a report, no less frequently than annually, describing issues arising during the previous year under the codes of ethics applicable to the fund. The report would include, but need not be limited to, details about code violations, sanctions imposed in response to those violations, procedures initiated or changed since the last report, and, in the case of the codes of the investment adviser or principal underwriter, changes to the code itself.[27] The proposed amendments also would require the management of each rule 17j–1 organization to certify to the fund board, no less frequently than annually, that the organization has adopted such procedures as are reasonably necessary to prevent access persons from violating the organization's code of ethics.[28] The report and certification requirements are designed to give the board an opportunity to evaluate and ask questions about the codes applicable to the fund, the manner in which they have been implemented, and their continued effectiveness.[29]

The Commission requests comment on the proposed board review, annual report and certification requirements. Are there other effective means of ensuring that boards are giving enough attention to the personal investment activities of fund personnel? Should the rule explicitly require board review when there have been material changes to a code or procedures, or when there have been significant or frequent violations of a code?

2. Unit Investment Trusts

Like other funds, unit investment trusts (''UITs'') and their principal underwriters currently are required by rule 17j–1 to adopt codes of ethics.[30] Because UITs do not have boards of directors, however, it would be difficult for them to comply with the proposed

security which, within the most recent 15 days, (i) is or has been held by the fund, or (ii) is being or has been considered by the fund or its investment adviser for purchase. When adopting rule 17j–1, the Commission indicated that ''the mechanics of setting parameters for determining when a transaction is 'being considered' by a particular investment company can best be resolved by the investment company, investment adviser or principal underwriter in the codes of ethics required to be adopted under the Rule.'' Adopting Release, *supra* note 4, at 73919.

[19] The board may conclude, for example, that it is appropriate to notify a fund's access persons that all securities that could be purchased by the fund are deemed ''being considered'' by the fund. Alternatively, the board may determine that a security is ''being considered'' by the fund once a research report relating to that security is prepared by, or received by, the fund's investment adviser.

[20] *See, e.g.*, In the Matter of Kemper Financial Services, Inc., *et. al.*, Investment Advisers Act Release No. 1494 (June 6, 1995) (investment adviser and portfolio manager found to have violated rule 17j–1(a)(3) under the Investment Company Act and the anti-fraud provision of the Advisers Act by diverting investment opportunities belonging to mutual fund clients to a profit-sharing plan established for the benefit of the adviser's employees); In the Matter of Joan Conan, Investment Advisers Act Release No. 1446 (Sept. 30, 1994) (portfolio manager found to have violated the anti-fraud provision of the Advisers Act by misappropriating an investment opportunity of clients that were unregistered investment funds).

[21] *See infra* note and accompanying text.

[22] *See* Part II. B for a description of, and proposed amendments to, these reporting requirements.

[23] Although the rule does not require that funds adopt pre-clearance procedures, the Commission notes that the ICI Advisory Group recommended that funds adopt these measures. ICI Report, *supra* note 11, at 42. The ICI Survey indicated that 69% of the funds responding to the survey had adopted the ICI Advisory Group's recommendation, and an additional 14% had modified the recommendation to reflect their own circumstances. ICI Survey, *supra* note 11, at 26.

[24] *See* 15 U.S.C. 80a–2(a)(19) (definition of ''interested person'' for purposes of the Investment Company Act).

[25] *See, e.g.*, Division of Investment Management, SEC, Protecting Investors: A Half Century of Investment Company Regulation 266 (1992).

[26] *See id.* at 255–56; PIA Report *supra* note 1, at 34.

[27] Upon receipt and consideration of a report, a fund board may in some cases determine that it is necessary to amend the fund's code, or to suggest to an investment adviser or principal underwriter that it consider amending its code. Reports prepared for, and submitted to, fund boards would be required to be maintained with the other records required by rule 17j–1.

[28] Although the proposed amendments would require a report and certification to be delivered to the board only annually, more frequent reports may be warranted in certain instances, such as when there have been particularly significant violations of a code or when there have been material changes to a code. In some instances, it may be determined that a particular violation or change should be reported to the board at its next meeting.

[29] In the ICI Report, the ICI Advisory Group made a recommendation similar to that proposed by the Commission today. ICI Report, *supra* note 11, at 47.

[30] A UIT is a type of fund that issues redeemable securities representing an undivided interest in a portfolio of specified securities. 15 U.S.C. 80a–4(2). Typically, UITs are created by a sponsor or ''depositor'' that accumulates a portfolio of securities and deposits them with a trustee under the terms of a trust indenture. The UIT portfolio is generally unmanaged; thus, UITs do not have investment advisers. The UIT's operations are subject to the terms of the trust indenture, which specifies the ongoing responsibilities of the trustee, the depositor and other third-party service providers. Thus, a UIT does not have a corporate-type management structure. *See generally* Form N–7 for Registration of Unit Investment Trusts Under the Securities Act of 1933 and Investment Company Act of 1940, Securities Act Release No. 6580 (May 14, 1985), 50 FR 21282.

amendments in the same manner as other funds. The principal underwriter or depositor of a UIT typically employs most of the persons having access to information concerning the UIT's securities. Under the proposed amendments, the initial approval and review requirement for a UIT would be fulfilled by either the principal underwriter or depositor for the UIT. The principal underwriter or the depositor would review all of the codes of ethics applicable to the UIT (i.e., the codes of the principal underwriter and the UIT) and determine whether the codes meet the standards described above.[31] Because they do not have boards of directors, UITs would be exempt from the proposed annual report and certification requirements. The principal underwriter or depositor would still be responsible, however, for ensuring that the codes of ethics applicable to the UIT and the related procedures contain provisions reasonably necessary to prevent access persons from violating rule 17j–1 and the codes.

The Commission recognizes that the absence of board review places the oversight of the operation of codes applicable to the UIT in the hands of the very people who may face the conflicts of interest that the rule is designed to address. The Commission requests comment whether an independent person or committee within the organization of the principal underwriter or depositor should review these codes. Should, for example, the underwriter be required to appoint a committee of persons who are not access persons to approve or review the codes? In addition, the Commission requests comment whether there are other investment companies that, like UITs, should be exempt from the annual report and certification provisions.

3. Alternative Approaches

As noted above, rule 17j–1 is based on the premise that rule 17j–1 organizations should be primarily responsible for tailoring specific restrictions and prohibitions on the personal investment activities of their access persons. The Division's PIA Report concluded that this premise continues to be correct.[32] Nevertheless, comment is requested whether rule 17j–1 should set more detailed standards for codes of ethics.

In its report on personal investment activities, the Investment Company Institute's Advisory Group on Personal Investing (''ICI Advisory Group'') suggested that codes of ethics should contain certain minimum substantive restrictions on the activities of access persons and other investment personnel. The ICI Advisory Group recommended, among other things, that codes of ethics prohibit investment personnel from participating in initial public offerings, receiving short-term trading profits, receiving gifts from persons with whom the fund has a business relationship, and purchasing securities during certain ''black-out periods.[33] The ICI Advisory Group did not recommend that the Commission amend rule 17j–1 to incorporate these recommendations. Should the Commission impose any specific restrictions on the personal investment policies of rule 17j–1 organizations and their access persons?[34]

B. Reports by Access Persons

1. Initial Reports

The Commission is proposing that rule 17j–1 require that every access person[35] provide a listing (an ''initial report'') of all securities directly or indirectly beneficially owned by the access person at the time that he or she becomes an access person.[36] Paragraph (c) of the rule currently requires every access person to report to the appropriate rule 17j–1 organization, at least quarterly, all transactions in which the access person has, or by reason of the transaction acquires, any direct or indirect beneficial ownership in any security (''quarterly reports'').[37] A fund, however, may not be able to monitor effectively the potential conflicts of interest that arise when an access person invests for his or her own account unless fund management knows the identity of *all* securities held by the access person, including securities acquired before the person became an access person.[38] For example, without knowledge of securities owned by an access person, the fund cannot adequately monitor if, and the extent to which, the access person may be making trading decisions on behalf of the fund regarding securities that the access person holds in his or her own portfolio.[39]

It appears to be common practice in the fund industry to require personnel to disclose personal securities holdings upon the commencement of employment.[40] Therefore, the initial report requirement should not create an additional burden for most rule 17j–1 organizations. To prevent duplicative reporting, the amended rule would provide that if an access person has previously provided information equivalent to that which would be in an initial report (whether in a single report or over time in transactional reports), the access person would not be required to submit an initial report.[41]

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[31] Last sentence of proposed rule 17j–1(b)(1)(ii).

[32] PIA Report, *supra* note 1, at 31.

[33] *See* ICI Report, *supra* note 11.

[34] Some commentators have advocated more comprehensive restrictions, such as banning all personal trading by fund personnel. *See, e.g.,* Stan Hinden, *Avoiding Conflicts—Real and Perceived,* Wash. Post, May 22, 1994, at H3; *Mutual Funds Need Tighter Rules,* Bus. Wk., Feb. 14, 1994, at 134; Susan Antilla, *Fund Managers Testing the Rules,* N.Y. Times, Jan. 23, 1994, § 3, at 15. In the PIA Report, the Division concluded that a total prohibition on personal investment activities by fund personnel is not warranted. PIA Report, *supra* note 1, at 29.

[35] *See supra* note 6.

[36] Proposed amendments to rule 17j–1(c)(1). The report would be required to be filed within 10 days of the event that causes the employee to become an access person (*e.g.,* hiring, promotion, change of position). The initial report would list the title of the security, its CUSIP number (if any), the number of shares held and the principal amount of the security. The Commission also is proposing to amend paragraph (c)(2) of the rule to require quarterly reports to include the CUSIP number (if any) for each security for which a transaction occurs and the date that the report is submitted by the access person. These amendments would assist fund compliance personnel and the Commission's inspections staff in evaluating compliance with the rule's reporting requirements. *See infra* note 38.

[37] *See supra* note 5. In many cases, an employee of an investment adviser or principal underwriter may technically be an access person of both his or her employer and the fund. The staff of the Division has taken the position that if in such a case the employer is required by rule 17j–1 to have a code of ethics, the employee need only be considered an access person of the employer and not of the fund. *See* Investment Company Institute (pub. avail. Mar. 31, 1981).

[38] *See* PIA Report, supra note 1, at 34. Not only are the reports required by rule 17j–1 important to fund management, but they also are important to the Commission's inspections staff, which reviews these reports and codes of ethics during inspections of rule 17j–1 organizations.

[39] Although rule 17j–1 does not explicitly prohibit an access person from making decisions on behalf of a fund regarding securities personally owned by the access person, the Commission would expect that codes of ethics would address this potential conflict of interest, and that boards of directors would wish to have the ability to track such decisions by access persons in order to determine whether these decisions are being inappropriately made. *See* PIA Report, *supra* note 1, at 24 n.74, 35 n.118. *See also* In re ML-Lee Acquisition Fund II, L.P., 848 F. Supp. 527 (D. Del. 1994) (rule 17j–1 may be violated if an access person causes a fund to purchase or sell securities owned by that person, particularly when the access person expects to personally benefit by the transaction).

[40] The ICI found that 77% of the fund complexes responding to its survey require some form of reporting similar to that proposed today. *See* ICI Survey, *supra* note 11, at 31.

[41] Proposed paragraph (c)(3)(v) of rule 17j–1. The proposed exception is intended to give rule 17j–1 organizations flexibility with respect to the initial report requirement. To comply with the exception, the applicable rule 17j–1 organization would have to retain all of the previously submitted information so that the organization could reconstruct the access person's securities holdings on the day that he or she became an access person. Additionally, all of the information used to reconstruct the access person's holdings would have to be maintained for five years from the date that the person becomes an

The ICI Advisory Group recommended that access persons file reports listing all of their securities holdings upon commencement of employment and thereafter annually.[42] The Commission requests comment whether an annual reporting requirement by access persons would be helpful to funds. To what extent would such a requirement be an undue burden on the persons required to file the reports? The Commission also requests comment whether ten days is the appropriate amount of time for a new access person to provide an initial report. Should new access persons be given additional time (*e.g.*, 15 or 20 days) to file these reports?

2. Scope of Reporting Requirements

The proposed amendments would require an access person to list in an initial report *every* security (as defined in rule 17j–1) beneficially owned by the access person, regardless of whether the security is connected to a security that the fund owns or intends or proposes to acquire at the time that the access person files the initial report. This approach departs from an earlier Division position.[43]

In response to inquiries made shortly after the adoption of rule 17j–1, the staff of the Division took the position that reports required to be made pursuant to paragraph (c) of the rule need be made only with respect to transactions in securities that may be connected to securities that the fund holds or intends or proposes to acquire.[44] These requests involved specific funds with investment objectives that permitted them to invest only in limited types of securities, such as municipal bonds.

The Commission believes that limiting the scope of the rule's reporting requirement may result in gaps in a rule 17j–1 organization's oversight of personal investment activities. For example, an employee of an investment adviser may violate the anti-fraud provision of rule 17j–1 by purchasing a security intended to be acquired by another fund in the same fund complex, even if the employee was not involved in the decision to purchase the security on behalf of the fund. If the employee did not have to report the transaction because the fund of which the employee was an access person did not own, and was not intending or proposing to acquire, the security, the transaction would escape the attention of fund compliance personnel. Comprehensive reporting requirements for both initial and quarterly reports would enable fund directors to determine whether access persons are inappropriately benefitting from their relationship with a fund, investment adviser or principal underwriter.[45] Thus, if the proposed amendments are adopted, the rule will be interpreted as requiring quarterly reports to be filed with respect to transactions in *all* securities. The Commission seeks comment on the effect that these reporting requirements would have on access persons and funds.[46]

3. Review of Reports

Rule 17j–1 currently requires that rule 17j–1 organizations inform access persons of their duty to make quarterly reports and to retain these reports in their records. The Commission is proposing to amend rule 17j–1 to specify that the procedures instituted by rule 17j–1 organizations to prevent violations of the code must include procedures for the review by appropriate managerial or compliance personnel of reports submitted by access persons.[47]

The transaction reporting requirements of rule 17j–1 are intended to keep rule 17j–1 organizations informed of the personal investment activities of access persons in order for these organizations to detect potential conflicts of interest and abusive practices. This purpose will be served only if the reports are reviewed. Procedures that specify not only that reports will be reviewed but that also assign the responsibility for review to specified personnel will increase the likelihood that the purposes of the reporting requirement will be met.

4. Duplicate Broker Reports

It appears to be increasingly common in the fund industry to require access persons of funds to direct their brokers to provide their employers with copies of confirmations of their personal securities transactions and periodic account statements (collectively, ''duplicate broker reports'').[48] The Commission believes that duplicate broker reports can be an appropriate substitute for quarterly reporting. The proposed amendments would provide that, at the option of the appropriate rule 17j–1 organization, access persons may provide duplicate broker reports in lieu of the quarterly reports.[49]

C. Disclosure of Personal Investing Policies

The Commission is proposing that each fund disclose in its prospectus that the fund and its investment adviser and principal underwriter have adopted codes of ethics relating to personal investment activities and whether or not these codes permit fund personnel to invest in securities (including securities that may be purchased or held by the

access person, in accordance with the recordkeeping requirements of paragraph (d) of the rule. Because the proposed exception could require an organization relying on the exception to maintain some records for a longer period of time than it otherwise would, rule 17j–1 organizations may choose to require new access persons to submit new initial reports rather than rely on the exception.

[42] *See* ICI Report, *supra* note , at 46.

[43] *See* Alterman Investment Fund, Inc. (pub. avail. Sept. 17, 1981); Minbanc Capital Corp. (pub. avail. Sept. 17, 1981); MI Fund, Inc. (pub. avail. Sept. 17, 1981).

[44] *Id.*

[45] *See* PIA Report, *supra* note 1, at 34 n.116. A list of all securities owned, purchased and sold by an access person also may be a necessary element of the written policies that a registered investment adviser must establish, maintain and enforce, in accordance with section 204A of the Advisers Act, to prevent the misuse of material, non-public information by the adviser and its personnel.

[46] The facts of some recent enforcement actions brought by the Commission have demonstrated that the opportunity for abusive practices may exist where a portfolio manager or other fund insider receives personal investing opportunities in connection with his or her recommendation that the fund purchase a specific security. *See, e.g., United States* v. *Ostrander*, 999 F.2d 27 (2nd Cir. 1993) *aff'g* 792 F. Supp. 241 (S.D.N.Y. 1992); *SEC* v. *Talton R. Embry*, Litigation Release No. 13777 (Sept. 9, 1993); *SEC* v. *Benalder Bayse, Jr.*, Litigation Release No. 13145 (Jan. 24, 1992). The Division staff expressed a similar concern in response to no-action requests regarding rule 204–2(a)(12) under the Advisers Act of 1940, which requires records to be kept of the securities transactions of investment adviser personnel similar to the reports required under paragraph (c) of rule 17j–1. *See* American Syndicate Advisors (pub. avail. Oct. 29, 1986); Financial Independence Advisers, Inc. (pub. avail. Oct. 28, 1985). The change in the Division's interpretation would make it easier for fund compliance personnel and the Commission's inspections staff to identify cases in which fund insiders receive special opportunities in connection with their investing on behalf of a fund.

[47] Proposed rule 17j–1(b)(1)(i). The name of the person or persons responsible for reviewing these reports would be required to be maintained in an easily accessible place for five years under proposed amendments to paragraph (d)(4) of the rule.

[48] The ICI Advisory Group recommended that funds adopt these measures. ICI Report, *supra* note 11, at 44. The ICI Survey indicated that 70% of fund complexes responding to the survey had adopted the ICI Advisory Group's recommendations, and that an additional 14% of fund complexes responding to the survey had adapted these recommendations to their particular circumstances. ICI Survey, *supra* note , at 27.

[49] Proposed rule 17j–1(c)(3)(vi). The duplicate broker report would be required to contain the same information that would appear on a quarterly report, and must be received by the rule 17j–1 organization within 10 days after the end of the quarter in which the transaction takes place. A duplicate broker report that does not contain all of the information required by paragraph (c)(2) would satisfy the rule if the missing information were contained in the records of the appropriate rule 17j–1 organization.

fund) for their own accounts.[50] The fund also would disclose that these codes are on public file with, and are available from, the Commission.[51]

As noted in the PIA Report, recent press accounts have suggested that fund shareholders may not fully understand the potential conflicts of interest faced by fund managers.[52] The ICI Advisory Group, in recommending prospectus disclosure concerning fund codes of ethics, stated that the most recent controversy over personal investing is ''in some significant part a product of insufficient information regarding current practices and standards.'' [53] There currently is no requirement that funds publicly disclose any information about their codes of ethics, and recent media accounts have suggested that it often is difficult to obtain this information.[54] The Commission believes that disclosure concerning the existence of fund personal investing policies to investors not only would provide investors with information they may want when making investment decisions, but also may encourage fund boards to exercise greater care in considering the contents of codes of ethics applicable to their funds.

The Commission believes that the proposed prospectus disclosure can be brief and clear, and thus it is consistent with the Commission's efforts to make prospectuses easier to read for investors.[55] The Commission requests comment whether a more detailed description should be provided in the Statement of Additional Information (''SAI'') or in the prospectus. If a fund's code of ethics conforms to a generally accepted industry norm, should a statement to that effect be sufficient to satisfy this requirement? [56] Commenters should indicate how an industry norm can be identified, and whether divergences from the norm that reflect the particular situations of the fund should be disclosed.

The Commission believes that the codes of ethics applicable to a fund should be available to the public. The Commission therefore is proposing that each fund file all codes of ethics applicable to it as an exhibit to its registration statement.[57] Making codes of ethics publicly available will permit the financial press and market professionals to obtain information about personal investment policies and to disseminate this information to the public.[58] The Commission requests comment whether funds should be required to send copies of their codes of ethics to investors upon request.

D. Applicability of Rule 17j–1 to Options and Convertible Securities

Paragraph (a) of rule 17j–1 prohibits fraudulent, deceptive or manipulative acts by fund affiliates and certain other fund insiders in connection with their personal transactions in securities held or to be acquired by the fund. The Commission is proposing to amend rule 17j–1 to clarify that this anti-fraud provision applies to any purchase or sale of an option for, or a security that is exchangeable for or convertible into, a security that is held or to be acquired by a fund (collectively, ''related securities'').[59]

Congress contemplated that the Commission's rules ''could apply to insider trading in the convertible securities, options and warrants of issuers whose underlying securities are owned by an investment company with which the insider is affiliated.'' [60] The value of a related security often is directly affected by the value of the underlying security. A fund insider who purchases or sells such a related security could improperly benefit from that transaction to the same extent as an insider who conducts a similar transaction in the underlying security.[61] The fact that the transaction involves a related security rather than the underlying security does not diminish its potential for providing an improper benefit to the insider at the expense of the fund and its shareholders.

The Commission requests comment whether this amendment would appropriately clarify the scope of the rule. Should paragraph (a) of rule 17j–1 incorporate other standards to define the types of related securities that fall within the scope of the rule, such as the standard used to determine whether an arrangement creates a ''pecuniary interest'' in an equity security for purposes of section 16 under the Securities Exchange Act of 1934 (''Exchange Act'') [62]

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[50] If a fund is not required to have a code of ethics, the proposed amendment would not require any prospectus disclosure of that fact. A fund that invests only in the securities of another fund (as is the case with ''master/feeder'' funds or variable annuities structured as unit investment trusts that invest in an underlying fund) would be required to disclose the requested information for the fund in which it invests and for such fund's investment adviser and principal underwriter. *See* Letter from Richard C. Breeden, Chairman, SEC, to John D. Dingell, Chairman, Committee House Committee on Energy and Commerce (Apr. 15, 1992), at Part III; Letter from Carolyn B. Lewis, Assistant Director, Division of Investment Management, SEC, to Registrants (Feb. 22, 1993), at Comment II.H. The new disclosure would be required under proposed amendments to Item 5 of Form N–1A, Item 9 of Form N–2, Item 6 of Form N–3, Item 3 of Form N–5 and Item 41 of Form N–8B–2.

[51] The Commission also is proposing that a fund be required to file with the Commission all codes of ethics applicable to the fund as exhibits to the fund's registration statement. *See infra* text accompanying note 57.

[52] PIA Report, *supra* note 1, at 13, 33.

[53] ICI Report, *supra* note 11, at 49.

[54] *See, e.g.*, Christopher Phillips, *Keeping Your Fund Manager Honest*, Kiplinger's Pers. Fin. Mag., Apr. 1994, at 57, 58; John Accola, *Only 1 of Top 4 Mutual Fund Firms Reveals Ethics Codes*, Rocky Mountain News, Feb. 6, 1994, at 93A. *See also* John Accola, *Janus First to Announce Revised Code of Ethics*, Rocky Mountain News, Jan. 15, 1995, at 98A (describing how the fund group provided a general outline of its code after many investor requests but had been advised by its attorneys not to release the complete document).

[55] *See, e.g.*, Arthur Levitt, Chairman, SEC, Taking the Mystery Out of the Marketplace: The SEC's Consumer Education Campaign, Remarks before the National Press Club (Oct. 13, 1994); Jeffrey M. Laderman, *The Prospectus Tries Plain Speaking*, Bus. Wk., Aug. 14, 1995, at 72; Stan Hinden, *Investor Protection, Plain and Simple; The SEC Unveils a New Fund Prospectus Written in Basic, Understandable Language*, Wash. Post, July 30, 1995, at H3; Albert B. Crenshaw, *SEC Ponders How to Make Prospectuses Speak Plainly*, Wash. Post, Oct. 16, 1994, at H1, H12.

[56] The ICI Advisory Group recommended certain minimum standards for all codes of ethics, such as prohibiting fund personnel from investing in initial public offerings, receiving short-term trading profits, and receiving gifts. *See* ICI Report, *supra* note 11. The ICI Survey indicated that a majority of fund complexes that responded to the survey are in some manner adopting these standards. *See* ICI Survey, *supra* note 11.

[57] If a fund is not required to have a code of ethics because it is a money market fund or because its investment policies permit it to invest only in securities that are exempt from the definition of ''security'' in rule 17j–1(e)(5), the fund would not be required to file any code, but would indicate on its exhibit list the reason that no code of ethics is being filed. If the fund invests only in the securities of another fund (as is the case with ''master/feeder'' funds), the fund would be required to file the codes of ethics applicable to the fund in which it invests. The exhibits would be required under proposed amendments to Item 24 of Forms N–1A and N–2, Item 28 of Form N–3, the Instructions As To Exhibits of Form N–5 and Part IX of Form N–8B–2.

[58] Prior to the adoption of Form N–SAR (17 CFR 249.330, 274.101) in 1985, funds made periodic reports on Form N–1R. Funds were required to file a copy of any codes of ethics or other written conflicts policies as exhibits to the form. *See, e.g.* Prevention of Unlawful Activities with Respect to Registered Investment Companies, Investment Company Act Release No. 10162 (Mar. 20, 1978), 43 FR 12721. Form N–SAR does not include a similar requirement.

[59] Proposed amendment to rule 17j–1(e)(6).

[60] House Report, *supra* note 7, at 28; Senate Report, *supra* note 7, at 29.

[61] Similarly, a fund insider who purchases or sells an underlying security when the fund holds or intends to purchase the related security could, in some instances, improperly benefit from that transaction. A security that underlies an option, warrant or convertible security held by a fund generally would be a security that is being considered for purchase by the fund.

[62] *See* rule 16a–1(a)(2) (17 CFR 240.16a–1(a)(2)) under the Exchange Act, which provides that certain persons are deemed to beneficially own specified equity securities if they have a ''direct or indirect pecuniary interest'' in the securities. The rule defines a pecuniary interest in an equity security as ''the opportunity, directly or indirectly,

E. Other Amendments

1. Money Market Instruments

Money market instruments and shares of open-end funds would appear to present little opportunity for the type of improper trading that rule 17j–1 is intended to cover.[63] The Commission therefore excepted bankers' acceptances, bank certificates of deposit, commercial paper and shares of open-end funds from the definition of ''security'' for purposes of rule 17j–1.[64] Since the adoption of the rule, the Division has issued several no-action and interpretive letters generally restating the Commission's position that all money market instruments (and not only those specified by the rule) are excepted from the rule's definition of ''security.'' [65] The Commission proposes to amend the definition of ''security'' in the rule to specifically provide that, in addition to the money market instruments currently listed, repurchase agreements and other high quality short-term debt instruments also are excepted from the definition.[66] The proposed amendments also provide that money market funds are not required to adopt codes of ethics.[67] The Commission requests comment whether there are other types of securities that, like money market instruments, would appear to present little opportunity for the type of improper trading that rule 17j–1 is intended to cover, and thus should be excepted from the definition of ''security'' for purposes of the rule.

2. Beneficial Ownership

Rule 17j–1 currently provides that, for purposes of the reporting requirement of paragraph (c) of the rule, beneficial ownership should be interpreted in a manner that is consistent with the way that term is interpreted for purposes of section 16 of the Exchange Act. In 1991, the Commission adopted revised rule 16a–1 under the Exchange Act in part to clarify the meaning of beneficial ownership for purposes of section 16.[68] Shortly thereafter, the Division issued a letter stating that the definition of beneficial ownership provided in newly adopted rule 16a–1(a)(2) under the Exchange Act should be used when determining beneficial ownership for purposes of paragraph (c) of rule 17j–1.[69] The Commission proposes to amend rule 17j–1(c) to incorporate this interpretation.

3. Conforming Amendments to Advisers Act Rules

Under paragraphs (a)(12) and (a)(13) of rule 204–2 under the Advisers Act, every investment adviser is required to keep records of the personal securities transactions of the adviser and its ''advisory representatives'' (as defined in the rule). Although the purposes of these paragraphs are substantially the same as the purposes of paragraph (c) of rule 17j–1, the two rules except transactions in different securities from their respective reporting/recordkeeping requirements. Currently, the rule under the Advisers Act excepts from its recordkeeping requirements only transactions in government securities.[70] The Commission believes the reporting requirements for the two rules should cover the same securities. Therefore, the Commission is proposing to amend rules 204–2(a)(12) and 204–2(a)(13) to except from the recordkeeping requirement transactions in securities that are (i) direct obligations of the U.S. Government, (ii) high quality short-term instruments,[71] including but not limited to bankers' acceptances, bank certificates of deposit, commercial paper and repurchase agreements, and (iii) shares of registered open-end investment companies. The Commission also proposes to incorporate the definition of beneficial ownership in rule 16a–1(a)(2) under the Exchange Act into rule 204–2.[72]

III. General Request for Comments

Any interested persons wishing to submit written comments on the rule and form changes that are the subject of this Release, to suggest additional changes, or to submit comments on other matters that might have an effect on the proposals contained in this Release, are requested to do so.

IV. Cost/Benefit Analysis

Funds and the public would benefit from the proposed amendments because the amendments would help prevent fraudulent activity, the costs to the public and shareholders of which could far exceed the cost of compliance with the proposed amendments.

The proposed amendments would impose certain additional costs on rule 17j–1 organizations and their access persons to the extent that these organizations do not currently require their access persons to file initial reports listing all securities held by the access persons, and to the extent the currently required quarterly reports do not include all securities transactions by access persons. Because access persons already are required by rule 17j–1 to file quarterly reports, however, the cost to these entities of accommodating initial reports is estimated to be minimal. The costs to access persons of compiling such reports also is estimated to be minimal.

Funds would incur additional costs for the proposed initial review of the codes applicable to the funds, the annual report and certification from fund management, the additional prospectus disclosure and the filing of applicable exhibits under the proposed amendments. However, in certain cases, fund costs would decrease because the proposed amendments would expand the list of securities exempt from the recordkeeping requirements.

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to profit or share in any profit derived from a transaction in the subject securit(y).'' The rule includes examples of ''indirect pecuniary interests,'' such as a general partner's proportionate interest in a portfolio of securities held by the partnership, certain performance-based fee arrangements, and a person's interest in securities held in a trust. As noted below, this definition is being incorporated into the rule's reporting provisions. *See infra* note 69 and accompanying text.

[63] *See* Adopting Release, *supra* note 4, at 73919.

[64] Rule 17j–1(e)(5). The rule also excepts ''securities issued by the Government of the United States'' from the definition. The proposed amendments would change this exception to read ''direct obligations of the Government of the United States'' in order to conform the exception to the exception for these securities listed in rules 204–2(a)(12) and 204–2(a)(13) under the Advisers Act. *See infra* part II.E.3. *See also,* ACM Government Income Fund, Inc. (pub. avail. Dec. 15, 1988) (Division staff interprets the reference to government securities in rule 17j–1(e)(5) to refer only to direct obligations of the United States, and not to obligations of instrumentalities).

[65] *See, e.g.,* The Mexico Fund, Inc. (pub. avail. Aug. 23, 1982); The Securities Groups Money Fund, Inc. (pub. avail. May 6, 1982); Institutional Liquid Assets (pub. avail. July 6, 1981).

[66] Proposed amendment to rule 17j–1(e)(5). The Commission interprets ''high quality short-term debt instrument'' to mean any instrument having a maturity at issuance of less than 366 days and which is rated in one of the highest two rating categories by a Nationally Recognized Statistical Rating Organization, or which is unrated but is of comparable quality.

[67] Proposed amendment to rule 17j–1(b). This is consistent with an interpretive position taken by the Division staff that funds that invest only in securities that are excepted from the definition of ''security'' in rule 17j–1, and their investment advisers and principal underwriters, are not required to adopt codes of ethics. Investment Company Institute (pub. avail. Mar. 31, 1981).

[68] *See* Ownership Reports and Trading by Officers, Directors and Principal Security Holders, Securities Exchange Act Release No. 28869 (Feb. 8, 1991), 56 FR 7242. *See also supra* note 62.

[69] *See* Investment Company Institute (pub. avail. July 31, 1991).

[70] The Division staff has issued several no-action letters stating that transactions in shares of funds unaffiliated with the investment adviser are exempt from the recordkeeping requirements of paragraphs (a)(12) and (a)(13) of rule 204–2. *See, e.g.,* Massachusetts Financial Services Co. (pub. avail. Oct. 6, 1992). The Division staff also currently takes the position that transactions in shares of affiliated open-end funds are exempt from the recordkeeping requirements.

[71] *See supra* note 66.

[72] *See supra* note 69 and accompanying text.

V. Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding amendments to rule 17j–1 under the Investment Company Act and rule 204–2 under the Advisers Act, and amendments to fund registration forms under the Investment Company Act and the Securities Act. The analysis notes that the amendments are designed to improve the regulation of personal investment activities by enhancing the oversight of these activities by rule 17j–1 organizations, providing the public with additional information about fund personal investment policies and making the scope of rule 17j–1 more consistent with its purpose. Cost-benefit information reflected in the ''Cost/Benefit Analysis'' section of this Release also is reflected in the analysis. A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting David M. Goldenberg, Securities and Exchange Commission, 450 Fifth Street, NW., Mail Stop 10–2, Washington, DC 20549.

VI. Statutory Authority

The Commission is proposing to amend rule 17j–1 pursuant to the authority set forth in sections 17(j) and 38(a) of the Investment Company Act (15 U.S.C. 80a–17(j) and 80a–37(a)). The amendments to registration forms are proposed pursuant to the authority set forth in sections 6, 7(a), 10 and 19(a) of the Securities Act (15 U.S.C. 77f, 77g(a), 77j, 77s(a)), and sections 8(b), 24(a) and 38(a) of the Investment Company Act (15 U.S.C. 80a–8(b), 80a–24(a) and 80a–37(a)). The amendments to rule 204–2 under the Advisers Act are proposed pursuant to the authority set forth in sections 204, 206(4) and 211(a) of the Advisers Act (15 U.S.C. 80b–4, 80b–6(4) and 80b–11(a).)

Text of Proposed Rule and Form Amendments

List of Subjects in 17 CFR Parts 239, 270, 274 and 275

Investment companies, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

1. The authority citation for Part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–37, 80a–39 unless otherwise noted;

* * * * *

2. Section 270.17j–1 is revised to read as follows:

§ 270.17j–1 Certain unlawful acts, practices, or courses of business and requirements relating to codes of ethics with respect to registered investment companies.

(a) It shall be unlawful for any affiliated person of or principal underwriter for a registered investment company, or any affiliated person of an investment adviser of or principal underwriter for a registered investment company in connection with the purchase or sale, directly or indirectly, by such person of a security held or to be acquired, as defined in this section, by such registered investment company:

(1) To employ any device, scheme or artifice to defraud such registered investment company;

(2) To make to such registered investment company any untrue statement of a material fact or omit to state to such registered investment company a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading;

(3) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any such registered investment company; or

(4) To engage in any manipulative practice with respect to such registered investment company.

(b)(1)(i) Every registered investment company, other than a money market fund, and each investment adviser of and principal underwriter for such investment company, shall have a written code of ethics containing provisions reasonably necessary to prevent its access persons from engaging in any act, practice, or course of business prohibited by paragraph (a) of this section and shall use reasonable diligence, and institute procedures reasonably necessary, including procedures by which the reports required by paragraph (c) of this section are reviewed by appropriate management or compliance personnel, to prevent violations of such code.

(ii) The board of directors of the investment company shall approve the code of the investment company. Prior to retaining the services of an investment adviser or principal underwriter, the board of directors shall review the codes of ethics adopted pursuant to paragraph (b)(1)(i) of this section by such investment adviser or principal underwriter, and shall receive a certification from such investment adviser or principal underwriter that it has adopted such procedures as are reasonably necessary to prevent access persons from violating such code. When approving or reviewing a code of ethics pursuant to this paragraph (b)(1)(ii), a majority of the directors of the investment company, including a majority of the directors who are not interested persons thereof, shall determine whether the code contains such provisions as are reasonably necessary to prevent access persons from engaging in any act, practice, or course of business prohibited by paragraph (a) of this section. In the case of a unit investment trust, the approval and review required by this paragraph (b)(1)(ii) shall be conducted by the principal underwriter or depositor of such unit investment trust.

(2) No less frequently than annually, the management of every investment company (other than a unit investment trust) and of its investment adviser and principal underwriter shall furnish to the directors of the investment company a report:

(i) Describing issues arising under the applicable code of ethics since the last report to the board, including, but not limited to, information about violations of the code, sanctions imposed in response to such violations, changes made to the code or procedures, and any proposed or recommended changes to the code or procedures; and

(ii) Certifying that the investment company, investment adviser or principal underwriter, as applicable, has adopted such procedures as are reasonably necessary to prevent access persons from violating the code.

(3) The requirements of paragraphs (b)(1) and (b)(2) of this section shall not apply to any underwriter:

(i) Which is not an affiliated person of the registered investment company or its investment adviser; and

(ii) None of whose officers, directors or general partners serves as an officer, director or general partner of such registered investment company or investment adviser.

(c)(1) Every access person of a registered investment company, other than a money market fund, or of an investment adviser of or principal underwriter for such investment company shall report to that investment company, investment adviser or principal underwriter:

(i) No later than 10 days after the date that such person becomes an access person, the title, CUSIP number (if any), number of shares and principal amount with respect to each security in which the access person had any direct or

indirect beneficial ownership at the time such person became an access person; and

(ii) No later than 10 days after the end of a calendar quarter, the information described in paragraph (c)(2) of this section with respect to any transactions during that quarter in any security in which the access person had, or by reason of such transaction acquired, any direct or indirect beneficial ownership in the security.

(2) Reports required to be made pursuant to paragraph (c)(1)(ii) of this section shall contain the following information:

(i) The date of the transaction, the title, CUSIP number (if any) and number of shares, and the principal amount of each security involved;

(ii) The nature of the transaction (*i.e.*, purchase, sale or any other type of acquisition or disposition);

(iii) The price at which the transaction was effected;

(iv) The name of the broker, dealer or bank with or through which the transaction was effected; and

(v) The date that the report is being submitted by the access person.

(3) Notwithstanding paragraph (c)(1) of this section, no person shall be required to make a report:

(i) With respect to transactions effected for any account over which such person does not have any direct or indirect influence or control;

(ii) If such person is not an ''interested person'' of a registered investment company within the meaning of section 2(a)(19) of the Act (15 U.S.C. 80a–2(a)(19)), and would be required to make such a report solely by reason of being a director of such investment company, except where such director knew or, in the ordinary course of fulfilling his official duties as a director of the registered investment company, should have known that during the 15-day period immediately preceding or after the date of the transaction in a security by the director such security is or was purchased or sold by such investment company or such purchase or sale by such investment company is or was considered by the investment company or its investment adviser;

(iii) Where the principal underwriter, as to which such person is an access person:

(A) Is not an affiliated person of the registered investment company or any investment adviser of such investment company; and

(B) Has no officers, directors or general partners who serve as officers, directors or general partners of such investment company or any such investment adviser;

(iv) Where a report made to an investment adviser would duplicate information recorded pursuant to §§ 275.204–2(a)(12) or 275.204–2(a)(13) of this chapter;

(v) Where a report to be made under paragraph (c)(1)(i) of this section would duplicate information that:

(A) Already has been provided to the investment company, investment adviser or principal underwriter;

(B) Would enable the investment company, investment adviser or principal underwriter to reconstruct the person's securities holdings at the time that the person became an access person; and

(C) Will be maintained in accordance with the requirements of paragraph (d)(3) of this section from the date that such person becomes an access person; or

(vi) Where a report to be made under paragraph (c)(1)(ii) of this section would duplicate information contained in a broker trade confirmation or account statement received by the investment company, investment adviser or principal underwriter with respect to such person in the time period required by that paragraph, *provided* that all of the information required by paragraph (c)(2) of this section is contained in such broker trade confirmation or account statement or is noted in the records of such investment company, investment adviser or principal underwriter.

(4) Each registered investment company, investment adviser and principal underwriter to which reports are required to be made pursuant to this section shall identify all access persons who are under a duty to make such reports to it and shall inform such persons of such duty.

(5) Any report required by paragraph (c)(1) of this section may contain a statement that the report shall not be construed as an admission by the person making such report that he or she has any direct or indirect beneficial ownership in the security to which the report relates. For purposes of this section, beneficial ownership shall be interpreted in the same manner as it would be under § 240.16a–1(a)(2) of this chapter in determining whether a person has beneficial ownership of a security for purposes of section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) and the rules and regulations thereunder.

(d) Each registered investment company, investment adviser and principal underwriter which is required to adopt a code of ethics or to which reports are required to be made by access persons shall, at its principal place of business, maintain records in the manner and to the extent set forth in this paragraph (d), and make such records available to the Commission or any representative thereof at any time and from time to time for reasonable periodic, special or other examination:

(1) A copy of each such code of ethics which is, or at any time within the past five years has been, in effect shall be preserved in an easily accessible place.

(2) A record of any violation of such code of ethics, and of any action taken as a result of such violation, shall be preserved in an easily accessible place for a period of not less than five years following the end of the fiscal year in which the violation occurs.

(3) A copy of each report made by an access person pursuant to this section, including any information provided in lieu of such reports pursuant to paragraphs (c)(3)(v) and (c)(3)(vi) of this section, shall be preserved for a period of not less than five years from the end of the fiscal year in which it is made, the first two years in an easily accessible place.

(4) A list of all persons who are, or within the past five years have been, required to make reports pursuant to this section, and a list of all persons responsible for reviewing such reports, shall be maintained in an easily accessible place.

(5) A copy of each report required by paragraph (b)(2) of this section shall be maintained for a period of not less than five years from the date such report is made, the first two years in an easily accessible place.

(e) As used in this section:

(1) *Access person* means:

(i) With respect to a registered investment company or an investment adviser thereof, any director, officer, general partner, or advisory person, as defined in this section, of such investment company or investment adviser.

(ii) With respect to a principal underwriter, any director, officer, or general partner of such principal underwriter who in the ordinary course of his business makes, participates in or obtains information regarding the purchase or sale of securities for the registered investment company for which the principal underwriter so acts or whose functions or duties as part of the ordinary course of his business relate to the making of any recommendation to such investment company regarding the purchase or sale of securities.

(iii) Notwithstanding the provisions of paragraph (e)(1)(i) of this section, where the investment adviser is primarily

engaged in a business or businesses other than advising registered investment companies or other advisory clients, the term *access person* shall mean any director, officer, general partner, or advisory person of the investment adviser who, with respect to any registered investment company, makes any recommendation, participates in the determination of which recommendation shall be made, or whose principal function or duties relate to the determination of which recommendation shall be made to any registered investment company; or who, in connection with his duties, obtains any information concerning securities recommendations being made by such investment adviser to any registered investment company.

(iv) An investment adviser is ''primarily engaged in a business or businesses other than advising registered investment companies or other advisory clients'' when, for each of its most recent three fiscal years or for the period of time since its organization, whichever is lesser, the investment adviser derived, on an unconsolidated basis, more than 50 percent of its total sales and revenues and more than 50 percent of its income (or loss) before income taxes and extraordinary items from such other business or businesses.

(2) *Advisory person* of a registered investment company or an investment adviser thereof means:

(i) Any employee of such company or investment adviser (or of any company in a control relationship to such investment company or investment adviser) who, in connection with his regular functions or duties, makes, participates in, or obtains information regarding the purchase or sale of a security by a registered investment company, or whose functions relate to the making of any recommendations with respect to such purchases or sales; and

(ii) Any natural person in a control relationship to such company or investment adviser who obtains information concerning recommendations made to such company with regard to the purchase or sale of a security.

(3) *Control* shall have the same meaning as that set forth in section 2(a)(9) of the Act (15 U.S.C. 80a–2(a)(9)).

(4) *Purchase or sale of a security* includes, *inter alia,* the writing of an option to purchase or sell a security.

(5) *Security* shall have the meaning set forth in section 2(a)(36) of the Act (15 U.S.C. 80a–2(a)(36)), except that it shall not include:

(i) Direct obligations of the Government of the United States;

(ii) High quality short-term debt instruments, including but not limited to bankers' acceptances, bank certificates of deposit, commercial paper and repurchase agreements; and

(iii) Shares of registered open-end investment companies.

(6) *Security held or to be acquired* by a registered investment company means:

(i) Any security as defined in this section which, within the most recent 15 days:

(A) Is or has been held by such company; or

(B) Is being or has been considered by such company or its investment adviser for purchase by such company; and

(ii) Any option to purchase or sell, and any security convertible into or exchangeable for, a security described in paragraph (e)(6)(i) of this section.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

3. The authority citation for Part 239 continues to read, in part, as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79*l*, 79m, 79n, 79q, 79t, 80a–8, 80a–29, 80a–30 and 80a–37, unless otherwise noted.

* * * * *

4. The authority citation for Part 274 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l*, 78m, 78n, 78o(d), 80a–8, 80a–24, and 80a–29, unless otherwise noted.

5. Item 5 of Form N–1A (referenced in §§ 239.15A and 274.11A) is amended by adding paragraph (h) and an instruction to read as follows:

Note: The text of Form N–1A does not, and the amendments to the form will not appear in the Code of Federal Regulations.

Form N–1A

* * * * *

Item 5. Management of the Fund

* * * * *

(h) A brief statement explaining (i) that the Registrant and its investment adviser and principal underwriter have adopted codes of ethics that have been filed with the Commission, (ii) whether or not these codes of ethics permit personnel subject to the codes to invest in securities, including securities that may be purchased or held by the Registrant, and (iii) that information about how the codes can be inspected or copied at the Commission's public reference rooms or obtained from the Commission's headquarters is available through the Commission's toll-free telephone number, 1–800–SEC–0330.

Instruction: A Registrant that is a money market fund or that otherwise is not required to adopt a code of ethics under Rule 17j–1 under the 1940 Act [17 CFR 270.17j–1] is not required to respond to this item.

* * * * *

6. Item 24 of Form N–1A [referenced in §§ 239.15A and 274.11A] is amended by redesignating paragraph (b)(17) as paragraph (b)(18) and adding paragraph (b)(17) and an instruction to read as follows:

Form N–1A

* * * * *

Item 24. Financial Statements and Exhibits

* * * * *

(b) * * *

(17) a copy of all codes of ethics adopted pursuant to Rule 17j–1 under the 1940 Act [17 CFR 270.17j–1] and currently applicable to the Registrant (*i.e.*, the codes of the Registrant and its investment advisers and principal underwriters). If there are no codes of ethics applicable to the Registrant, state why (*e.g.*, that the Registrant is a money market fund).

Instruction: A Registrant that is a feeder fund must also file a copy of all codes of ethics applicable to the master fund.

* * * * *

7. Item 9 of Form N–2 (referenced in §§ 239.14 and 274.11a–1) is amended by removing the word ''and'' after the semicolon in paragraph 1.f., removing the period in the last line of paragraph 1.g. and replacing it with ''; and'' and adding paragraph 1.h. and an instruction to read as follows:

Note: The text of Form N–2 does not, and the amendments to the form will not, appear in the Code of Federal Regulations.

Form N–2

* * * * *

Item 9. Management

1. *General:* * * *

h. *Codes of Ethics:* a brief statement explaining (i) that the Registrant and its investment adviser and principal underwriter have adopted codes of ethics that have been filed with the Commission, (ii) whether or not these codes of ethics permit personnel subject to the codes to invest in securities, including securities that may be purchased or held by the Registrant, and (iii) that information about how the codes can be inspected or copied at the Commission's public reference rooms or obtained from the Commission's headquarters is available through the Commission's toll-free telephone number, 1–800–SEC–0330.

Instruction

A Registrant that is not required to adopt a code of ethics under Rule 17j–1 under the 1940 Act (17 CFR 270.17j–1) is not required to respond to this item.

* * * * *

8. Item 24 of Form N–2 (referenced in §§ 239.14 and 274.11a–1) is amended by redesignating paragraph 2.r. as

paragraph 2.s. and adding paragraph 2.r. to read as follows:

Form N–2

* * * * *

Item 24. Financial Statements and Exhibits

* * * * *

2. * * *

r. a copy of all codes of ethics adopted pursuant to Rule 17j–1 under the 1940 Act (17 CFR 270.17j–1) and currently applicable to the Registrant (*i.e.*, the codes of the Registrant and its investment advisers and principal underwriters). If there are no codes of ethics applicable to the Registrant, state why (*e.g.*, the Registrant invests only in direct obligations of the United States Government).

* * * * *

9. Item 6 of Form N–3 (referenced in §§ 239.17a and 274.11b) is amended by adding paragraph (e) and an instruction to read as follows:

Note: The text of Form N–3 does not, and the amendments to the form will not, appear in the Code of Federal Regulations.

Form N–3

* * * * *

Item 6. Management

* * * * *

(e) A brief statement explaining (i) that the Registrant and its investment adviser and principal underwriter have adopted codes of ethics that have been filed with the Commission, (ii) whether or not these codes of ethics permit personnel subject to the codes to invest in securities, including securities that may be purchased or held by the Registrant, and (iii) that information about how the codes can be inspected or copied at the Commission's public reference rooms or obtained from the Commission's headquarters is available through the Commission's toll-free telephone number, 1–800–SEC–0330.

Instruction: A Registrant that is a money market fund or that otherwise is not required to adopt a code of ethics under Rule 17j–1 under the 1940 Act (17 CFR 270.17j–1) is not required to respond to this item.

* * * * *

10. Item 28 of Form N–3 (referenced in §§ 239.17a and 274.11b) is amended by redesignating paragraph (b)(17) as paragraph (b)(18) and adding paragraph (b)(17) to read as follows:

Form N–3

* * * * *

Item 28. Financial Statements and Exhibits

* * * * *

(b) * * *

(17) a copy of all codes of ethics adopted pursuant to Rule 17j–1 (17 CFR 270.17j–1) and currently applicable to the Registrant (*i.e.*, the codes of the Registrant and its investment advisers and principal underwriters). If there are no codes of ethics applicable to the Registrant, state why (*e.g.*, the Registrant is a money market fund).

* * * * *

11. Item 3 of Form N–5 (referenced in §§ 239.24 and 274.5) is amended by removing the word ''investment'' both times that it appears in the introductory text and adding paragraph (i) after the instruction to read as follows:

Note: The text of Form N–5 does not, and the amendments to the form will not, appear in the Code of Federal Regulations.

Form N–5

* * * * *

Item 3. Policies With Respect to Security Investments

* * * * *

(i) Whether or not the codes of ethics of the registrant and its investment adviser and principal underwriter permit personnel subject to the codes to invest in securities, including securities that may be purchased or held by the registrant. Also state that the codes of ethics adopted by the registrant and its investment adviser and principal underwriter have been filed with the Commission and that information about how the codes can be inspected or copied at the Commission's public reference rooms or obtained from the Commission's headquarters is available through the Commission's toll-free telephone number, 1–800–SEC–0330.

* * * * *

12. The Instructions As To Exhibits of Form N–5 (referenced in §§ 239.24 and 274.5) are amended by redesignating paragraph 13 as paragraph 14 and adding paragraph 13 to read as follows:

Form N–5

* * * * *

Instructions as to Exhibits

* * * * *

13. A copy of all codes of ethics adopted pursuant to Rule 17j–1 under the 1940 Act (17 CFR 270.17j–1) and currently applicable to the registrant (*i.e.*, the codes of the registrant and its investment advisers and principal underwriters).

* * * * *

13. Item 41 of Form N–8B–2 (referenced in § 274.12) is amended by adding paragraph (d) to read as follows:

Note: The text of Form N–8B–2 does not, and the amendments to the form will not, appear in the Code of Federal Regulations.

Form N–8B–2

* * * * *

41. * * *

(d) Provide a brief statement explaining (i) that the trust and its principal underwriter have adopted codes of ethics that have been filed with the Commission, (ii) whether or not these codes of ethics permit personnel subject to the codes to invest in securities, including securities that may be purchased or held by the trust, and (iii) that information about how the codes can be inspected or copied at the Commission's public reference rooms or obtained from the Commission's headquarters is available through the Commission's toll-free telephone number, 1–800–SEC–0330.

* * * * *

14. Part IX of Form N–8B–2 (referenced in § 274.12) is amended by adding paragraph A.(11) to read as follows:

Form N–8B–2

* * * * *

IX

Exhibits

A. * * *

(11) a copy of all codes of ethics adopted pursuant to Rule 17j–1 under the 1940 Act (17 CFR 270.17j–1) and currently applicable to the trust (*i.e.*, the codes of the trust and its principal underwriters). If there are no codes of ethics applicable to the trust, state why (*e.g.*, the trust invests only in direct obligations of the United States Government).

* * * * *

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

15. The authority citation for part 275 continues to read, in part, as follows:

Authority: 15 U.S.C. 80b–3, 80b–4, 80b–6A, 80b–11, unless otherwise noted.

16. Section 275.204–2 is amended by revising the first sentence of paragraph (a)(12)(i), redesignating paragraphs (a)(12)(ii) and (a)(12)(iii) as (a)(12)(iii) and (a)(12)(iv), adding paragraph (a)(12)(ii), redesignating newly designated paragraph (a)(12)(iii)(B) as (a)(12)(iii)(C), adding paragraph (a)(12)(iii)(B), revising the first sentence of paragraph (a)(13)(i), redesignating paragraphs (a)(13)(ii) and (a)(13)(iii) as paragraphs (a)(13)(iii) and (a)(13)(iv), adding paragraph (a)(13)(ii), redesignating newly designated paragraphs (a)(13)(iii)(B) and (a)(13)(iii)(C) as (a)(13)(iii)(C) and (a)(13)(iii)(D) and adding new paragraph (a)(13)(iii)(B), to read as follows:

§ 275.204–2 Books and records to be maintained by investment advisers.

(a) * * *

(12)(i) A record of every transaction (other than transactions described in paragraph (a)(12)(ii) of this section) in a security in which the investment adviser or any advisory representative (as hereinafter defined) of such investment adviser has, or by reason of such transaction acquires, any direct or indirect beneficial ownership.* * *

(ii) Notwithstanding paragraph (a)(12)(i) of this section, no record need be kept of any transactions:

(A) Effected in any account over which neither the investment adviser nor any advisory representative of the investment adviser has any direct or indirect influence or control; or

(B) In securities which are:

(*1*) Direct obligations of the Government of the United States;

(*2*) High quality short-term debt instruments, including but not limited to bankers' acceptances, bank certificates of deposit, commercial paper and repurchase agreements; or

(*3*) Shares of registered open-end investment companies.

(iii) * * *

(B) The term *beneficial ownership* shall be interpreted in the same manner as it would be under § 240.16a–1(a)(2) of this chapter in determining whether a person has beneficial ownership of a security for purposes of section 16 of the Securities Exchange Act of 1934 [15 U.S.C. 78p] and the rules and regulations thereunder.

* * * * *

(13)(i) Notwithstanding the provisions of paragraph (a)(12) of this section, where the investment adviser is primarily engaged in a business or businesses other than advising registered investment companies or other advisory clients, a record must be maintained of every transaction (other than transactions described in paragraph (a)(13)(ii) of this section) in a security in which the investment adviser or any advisory representative (as hereinafter defined) of such investment adviser has, or by reason of such transaction acquires, any direct or indirect beneficial ownership.* * *

(ii) Notwithstanding paragraph (a)(13)(i) of this section, no record need be kept of any transactions:

(A) Effected in any account over which neither the investment adviser nor any advisory representative of the investment adviser has any direct or indirect influence or control; or

(B) In securities which are:

(*1*) Direct obligations of the Government of the United States;

(*2*) High quality short-term debt instruments, including but not limited to bankers' acceptances, bank certificates of deposit, commercial paper and repurchase agreements; or

(*3*) Shares of registered open-end investment companies.

(iii) * * *

(B) The term *beneficial ownership* shall be interpreted in the same manner as it would be under § 240.16a–1(a)(2) of this chapter in determining whether a person has beneficial ownership of a security for purposes of section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) and the rules and regulations thereunder.

* * * * *

Dated: September 8, 1995.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

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